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ABSTRACT

Developed to meet the needs of small rural school districts, this guide assists local education agencies in undertaking an institutional self-evaluation of their compliance with Title IX regulations. It also attempts to help them modify policies and practices where necessary. The materials have been developed to allow for modification to unique local circumstances. The first five sections of the guide divide the self-evaluation into the following areas: access to courses, counseling and guidance, treatment of students, athletics, and employment. The sixth section presents technical assistance services, a bibliography of related materials, and additional sources of information for corrective action. Each section first presents and explains relevant sections of the regulation. Data collection tables for each area can be duplicated to enable district personnel to collect and organize the information needed to assess the district's compliance. A corrective action guide is intended to assist district personnel in evaluating the data collected for compliance and in identifying alternative corrective measures. Two compliance records pages are included at the end of each section to assist in identification, organization, and monitoring of corrective actions. In addition, these pages can be used to compile a permanent record of district compliance efforts. (Author/JM)

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ACHIEVING SEX EQUITY:

Assessing and Implementing Compliance with Title IX in Public Schools

Developed by
THE PACIFIC INSTITUTE FOR NONSEXIST EDUCATION
PORTLAND STATE UNIVERSITY

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ACHIEVING SEX EQUITY: Assessing and Implementing Compliance with Title IX in Public Schools

The Pacific Institute for Nonsexist Education (PINE) has prepared this guide to aid local school districts in complying with Title IX of the Educational Amendments of 1972, which states:

> No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

Title IX was passed by the Ninety-second Congress and signed into law by the President of the United States on June 23, 1972. Authority for the development and enforcement of regulations implementing Title IX was given to the executive branches of the federal government which administer financial assistance to education programs. On July 21, 1975, the U.S. Department of Health, Education and Welfare (HEW) issued the *Final Title IX Regulation Implementing the Education Amendments of 1972 Prohibiting Sex Discrimination in Education.* This Regulation applies to most educational agencies and institutions, including local school districts. It establishes the criteria to which local school districts must adhere in eliminating sex discrimination in education programs and in employment policies and practices.

This Title IX Regulation specifies five compliance requirements. Each recipient of federal assistance was to have completed these five tasks within the first twelve months from issuance of the Final Regulation, or by July 21, 1976. These five compliance tasks are:

1. Notification of a policy of nondiscrimination on the basis of sex and of compliance with Title IX.

2. Designation of an employee (or employees) responsible for coordinating compliance efforts.

3. Development and implementation of a grievance procedure for handling complaints alleging violations of Title IX.

4. Implementation of an institutional self-evaluation to assess institutional or agency policies and practices for compliance with the requirements of the Regulation and the modification of policies and practices where necessary to achieve compliance.

5. Submission of an assurance of compliance with Title IX to the Office for Civil Rights, HEW.

Achieving Sex Equity has been designed to assist local education agencies meet the fourth compliance requirement, the implementation of an institutional self-evaluation.[1] It has been developed particularly to meet the compliance needs of small/rural Pacific Northwest school districts, in the course of a one-year technical assistance project funded by the U.S. Office of Education to provide Title IX assistance to thirty-five school districts in Washington, Idaho and Oregon. The name of this technical assistance project is the Pacific Institute for Nonsexist Education (PINE), housed at Portland State University.

The PINE project staff, in previous work with districts throughout the Northwest, realized the necessity of developing approaches and materials for Title IX compliance which were more appropriate for such small districts. Although excellent self-evaluation materials were available, they were national in focus and thus, appropriately, very comprehensive in scope. This often made them less practical for small school districts which did not offer the wide range of programs found in urban systems. *Achieving Sex Equity*, therefore, is designed to enable the assessment of the programs and activities usually found in smaller districts. In this sense it is not, therefore, a truly comprehensive guide to Title IX compliance. However, because the areas covered in this guide are also areas which must be addressed by larger systems as well, this guide may be adapted to provide a thorough guide to self-evaluation for larger districts.[2]

The information and data collection tables presented here bring together the experiences of these participating PINE school districts, the knowledge and experience of the project staff and the contribution of pre-existing self-evaluation guides to produce a data-based guide to evaluating local school district policies and practices for Title IX compliance and for modifying those policies and practices which do not comply with the Regulation.

These materials are meant to be a translation of the Regulation into observable characteristics of educational services and employment policies and practices which will enable local school personnel to conduct the required institutional self-evaluation. The authors recognize that Title IX compliance is both complex and contextual. That is that different school districts will have different compliance needs and different ways of addressing these needs. Therefore, these materials have been developed to allow for modification to meet local circumstances. They are presented as guidelines for district staff in complying with Title IX within their own districts. They identify those areas of school operations which need to be evaluated in the institutional self-evaluation and provide specific data collection forms and evaluative criteria for each of these areas.

Although *Achieving Sex Equity* was originally developed to assist local school personnel in conducting their initial Title IX self-evaluation, these materials have successfully served other purposes. PINE districts which had completed their initial self-evaluation found that the materials are valuable for organizing the documentation of this previous effort and in the process have often identified areas of their previous self-evaluation which needed strengthening. Other districts have used these materials to establish a monitoring system to assure continued Title IX compliance. In addition to these uses, the PINE project staff and others have found that *Achieving Sex Equity* constitutes an excellent framework for workshop presentations of Title IX coverage and compliance.

These materials do not include a full rendition of the Title IX Regulation itself, rather they are intended to be used in conjunction with the Regulation. In order to facilitate this, each section of *Achieving Sex Equity* is referenced to the section of the Regulation to which it applies. Users of this guide are urged to make use of the Regulation itself in conducting the self-evaluation and to refer to this Regulation for the specific language and requirements of the law.[3]

Additional assistance with the requirements of the Regulation is available from the Office for Civil Rights, from the Equal Education Opportunities staff of State Departments of Education and from the staff of any of the technical assistance agencies funded by the U.S. Office of Education. A list of these sources of Title IX technical assistance in

Region X (Alaska, Washington, Oregon and Idaho) is included in Section VII, *Resources for Title IX Compliance.*

How to Use Achieving Sex Equity

These materials have been designed to enable local school personnel to identify and collect the information necessary to make sound, data-based decisions regarding the elimination of sex discrimination in educational services and employment. Those sections of the Title IX Regulation which are most relevant to local education agencies are addressed. In each section, the materials provide a logical progression from data collection through data analysis, identification of corrective action and compliance monitoring. This progression enables school personnel to translate the Title IX Regulation into appropriate action steps within their district.

These materials are designed both to facilitate the actual process of self-evaluation and to serve as a comprehensive documentation of district compliance efforts.

The guide is meant to be transferred to a three-ring binder. The materials are designed to be free-standing and can be taken apart to allow the distribution of individual sections to appropriate data collectors/analysts during the self-evaluation. For example, the section on Counseling and Guidance may be removed, copied and delivered to the counseling staff in each school building. Then, the Title IX officer can collect these completed data collection forms and compliance records and re-enter them into the notebook. Thus, the guide becomes a portable working file.

Placing the guide in a binder also allows it to become a valuable documentation instrument. In addition to the completed data collection forms and the compliance activity records, the file could contain records of the notification of policy, descriptions of the grievance procedure(s) developed, records of grievances processed, and a copy of the assurance form the district filed, in addition to any other information the district felt to be relevant. Such a comprehensive documentation of compliance activities would be a valuable resource for any district which receives an inquiry from the Office for Civil Rights regarding an alleged Title IX violation.

This loose-leaf organization of the materials also enables district personnel to supplement or modify the materials to make them more completely responsive to the needs of their district. Additional materials could be added to the notebook, or certain forms may be extracted, modified and replaced by district personnel.

Achieving Sex Equity contains six sections. The first five are parallel sections which organize the coverage of the Regulation into the following areas: Access to Courses, Counseling and Guidance, Treatment of Students, Athletics, and Employment. The sixth section includes information regarding available technical assistance services and a bibliography of other available materials related to Title IX and sex equity in education. This section provides additional sources of information for corrective action relevant to each of the preceeding six sections.

The first five compliance sections share a common construction. Each of these sections is designed to assist local school personnel in identifying policies and practices which are not in compliance with Title IX by analyzing the effects of district policies and practices in areas covered by the Regulation. They provide assistance also in developing corrective action steps to correct discriminatory situations. Each section includes the following components:

1. A **Table of Contents** which identifies the topic and location of each data collection table and corrective action guide in that section, as well as the introductory background section and the compliance records forms for that section.

2. An **Introduction** which presents the most relevant sections of the Title IX Regulation and briefly explains the underlying principles addressed therein.

3. **Data Collection Tables** which are designed to enable district personnel to collect and organize the information needed to assess the district's compliance in that particular area. Each of these tables is slightly different and each includes instructions for completion. Each data collection table identifies a data collection/analysis unit, e.g., instructs the user to collect data at the building level or the district level. These units have been identified as those most useful to the relatively small school systems which were involved in the PINE project. Districts which are smaller or larger may find these materials more useful if these units of data collection/analysis are adjusted for their district size.

   These decision should be made on an individual basis for each data collection table, in light of the most practical approach within that particular district. In most cases, only one copy of each data collection table is included in this publication. It is intended that this copy be removed and copied in the district to provide a sufficient number of forms to collect the data required. These copies, when completed, can then be filed with the original in a three-ring binder so that complete district-wide documentation is ensured.

4. A **Corrective Action Guide** immediately follows each data collection table or related set of tables. This guide is keyed into both the appropriate data collection table and the appropriate section or sections of the Title IX Regulation. In addition, the user's attention is directed to relevant district materials to be used in the analysis of the data collected in the data collection table. The corrective action guide is designed to assist district personnel in evaluating the data collected for compliance with the Title IX Regulation and in identifying guidelines for alternative corrective steps which could be undertaken by the district where necessary. Although specific corrective actions are identified where possible, these are provided primarily for illustrations. The emphasis in these materials is on the evaluation of school data for equality of opportunity on the basis of sex. The user is advised to consult the Bibliography of resource materials included in the last section for additional assistance in formulating corrective steps which are appropriate for the situation in their district. Such assistance is available also from the technical assistance agencies which are also identified in the last section, **Resources for Title IX Compliance.**

5. Two **Compliance Records** pages are included at the end of each section. These pages serve two purposes. First, they enable persons within the district who are responsible for Title IX compliance to identify, organize and monitor the corrective actions to be undertaken throughout the district. In addition, they constitute a permanent record of the district's compliance efforts which may be referred to in the case of an inquiry from the Office for Civil Rights.

   Once appropriate corrective steps have been identified, enter these on the Compliance Records forms. Two forms are included in each section because it is suggested that separate records be established for building-level and district-wide ac-

tions. It is advisable to remove these forms and make additional copies of them to ensure that there will be adequate space for recording all corrective action steps in each section. When recording planned corrective actions, be as specific as possible. This will make it easier for the Title IX compliance officer in the district to monitor their progress. For example, rather than entering "equalized basketball equipment for girls' and boys' teams," record instead the intent to "purchase three additional Wilson basketballs for the girls' team."

In summary, each of the five compliance sections of *Achieving Sex Equity* include five components designed to assist local school personnel in the identification and collection of the information needed to evaluate district compliance with Title IX, the analysis of this data to identify areas of noncompliance, the formulation of corrective action steps where necessary and in recording and monitoring corrective action plans. These materials are designed both to be working materials during the process of institutional self-evaluation and, when completed, to serve as comprehensive documentation of the district's compliance efforts.

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[1]School personnel seeking assistance in meeting the other compliance requirements are referred to a publication of the U.S. Office of Education, *Complying with Title IX: The First Twelve Months*, developed by Shirley McCune and Martha Matthews, Resource Center for Sex Roles in Education, prepared under contract for the Women's Program Staff, U.S. Office of Education, HEW. This volume was also distributed directly to local education agencies, but additional copies are available from the U.S. Government Printing Office, North Capitol and H Sts. NW, Washington, D.C. 20401.

[2]Persons wishing to adapt these materials for urban districts should refer to *Complying with Title IX: Implementing Institutional Self-Evaluation*, by Martha Matthews and Shirley McCune, Resource Center for Sex Roles in Education, prepared under contract for the Women's Program Staff, U.S. Office of Education, HEW. (See footnote 1.)

[3]This Regulation was distributed directly to local education agencies by HEW. Additional copies are available from the regional offices of the Office for Civil Rights, which has responsibility for enforcement of the HEW Regulation. In Region X (Alaska, Washington, Oregon and Idaho), additional copies may be obtained by writing: Regional Director, Office for Civil Rights, 6101 Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington, 98101.

I

ACCESS TO COURSES

ACHIEVING SEX EQUITY: Assessing and Implementing
Compliance with Title IX in Public Schools
Portland State University
Portland, Oregon

ACCESS TO COURSES

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ACCESS TO COURSES

Section 86.34 of the Title IX Regulation provides that a school district may not:

> provide any course or otherwise carry out any of its educational program or activities separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music and adult education courses.

The Regulation permits only limited and specified exemptions to the requirement that all courses and activities be conducted on a coeducational basis. The Regulation provides that certain portions of physical education classes may be conducted in sex segregated groups. It also states that:

> Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls (§86.34(e)).
>
> (Schools) may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex (§86.34(f)).

The basic principle underlying this section of the Regulation is that all students should be provided full and genuine access to all courses and activities offered by the school district. This means that each student would be encouraged to select courses on the basis of individual interests, values and ability. Such encouragement requires the identification and elimination of school policies and practices which function to discourage such choices through the perpetuation of stereotypes regarding the interests, abilities and educational needs of girls and boys.

The data collection tables and corrective action guides in this section of *Achieving Sex Equity* are designed to assist school personnel in the identification and elimination of such school policies and practices. These materials focus on three kinds of courses and guide the district personnel in evaluating the accessibility of these courses to all students, regardless of sex. These areas are: Elective Courses, Physical Education Courses and Special Education Programs.

In directing the attention of school personnel to the enrollment patterns of elective courses in secondary schools, two assumptions have been made. The first assumption is that nonelective courses, i.e. courses which are required of every student male or female, are offered coeducationally and, thus, being required for everyone, the enrollment in such courses may be expected to include roughly equal numbers of girls and boys. If such courses are not offered coeducationally, this policy must be changed in order to comply with the Regulation cited above.

The second assumption is that the differentiation in educational opportunities afforded females and males in secondary schools is most often identified in the enrollments of elective courses. Particularly important here are the enrollments in advanced math and science courses and the enrollments in vocational education courses. Clear patterns based on sex emerge in many districts when enrollments in these programs are examined. Since completion of advanced math and science courses has such a significant impact on admission to higher education programs leading to technical and professional careers, failure of the school to provide and encourage access to these courses for girls may preclude their entry into the majority of professional careers in today's increasingly

technical society. Similarly, sex differentiation in vocational training has a direct impact on the ability of students to enter a rewarding career. Nationally, the majority of vocational classes are predominantly male or female.[1] Those vocational classes which are predominated by females tend to be "non-gainful" homemaker courses or courses aimed at occupations which in turn are dominated by women and which pay less than the jobs for which the boys are being trained.[2] The requirement that all courses be equally available to girls and boys is aimed at providing both girls and boys with an equal opportunity to prepare themselves for the paid labor force in the manner which best suits their individual interests and abilities. Current statistics concerning the participation of women in the paid labor force indicate that this opportunity is becoming increasingly important to girls. These statistics indicate that even women who marry will work outside the home for an average of 25 years.[3]

The second area of focus in the Access to Courses section of *Achieving Sex Equity* concerns physical education classes. Title IX prohibits sex-segregated physical education except during those portions of classes which involve instruction in contact sports. Because physical education classes have traditionally been conducted separately in many districts, part of this section is designed to assist in the identification of policies and practices which constitute discrimination on the basis of sex in access to physical education courses and in the treatment of students within physical education courses.

The third area of focus is special education programs. Because students are selected for participation in special education courses, it is necessary to examine the enrollment patterns in these programs. Experience shows that in such selection processes in schools, sex role stereotyping often plays a part. Sex role stereotyping involves the application of generalized assumptions about the behavior, abilities, interests and needs of girls and boys and the application of such assumptions may have the result of making decisions which do not fully consider individual potential and needs.

The Access to Courses section is followed by the Guidance and Counseling section. This is because the counseling which students receive has a significant impact on their course choices, either directly through academic counseling and course selection assistance or indirectly through personal counseling which reinforces sex role stereotypes.

[1] *Summary Data Vocational Education, Fiscal Year 1972.* Office of Education, Department of Health, Education and Welfare.

[2] *Stalled at the Start: Government Action on Sex Bias in the Schools,* Project on Equal Education Rights, NOW Legal Defense and Education Funds (1977).

[3] *The Myth and the Reality,* U.S. Department of Labor, Employment Standards Administration, Women's Bureau, May, 1974 (revised) p.2.

DATA COLLECTION: ACCESS TO COURSES

TABLE 1 CURRENT ENROLLMENT IN ELECTIVE COURSES

INSTRUCTIONS: Record the name and description of each course which is not required of every student. Convert actual numbers of girls and boys enrolled into percentages by dividing each of the total number of students enrolled in the course. Whenever either of these percentages is 80% or more, indicate this by placing a check (✓) in the last column. Complete one of these forms for each junior and senior high school building, recording data for the current term. Then refer to Table 2 for further consideration of each course with disproportionate enrollment, i.e. 80% or more female or male.

COURSE NAME AND DESCRIPTION	ENROLLMENT		CHECK HERE
	% FEMALE	% MALE	

COMPLETED BY _____
(Name) (Title) (Location) (Date)

DATA COLLECTION: ACCESS TO COURSES

TABLE 2 EVALUATION OF FACTORS WHICH CONTRIBUTE TO DISPROPORTIONATE ENROLLMENT

INSTRUCTIONS: Complete one of these forms for each course in which you found disporportionate enrollment in Table 1. Whenever you answer "Yes" to one of these questions, you have identified a need for corrective action. Refer to the following *Corrective Action Guide* for the appropriate category, e.g., *Biased Presentation*, for assistance in evaluating this information.

Name of Course: _____

A. FORMAL RESTRICTIONS/REQUIREMENTS

1. Are either girls or boys restricted from participating in this course? Yes No
2. Is this course required for girls only, or for boys only? Yes No
3. Is this course conducted separately for girls and boys? Yes No

B. BIASED PRESENTATION

1. Does the course name sound either feminine or masculine? Yes No
2. Does the course description consistently use either male or female pronouns? Yes No
3. Is the course description written in such a way that it will appeal more to either girls or boys? Yes No
4. Does the course description state or suggest that the course is intended for either girls or boys? Yes No

C. SCHEDULING PROCEDURES

1. Is there a prerequisite for this course from which either boys or girls were restricted or discouraged earlier? Yes No
2. Is this class offered at the same time as another course which attracts mostly students of the opposite sex? Yes No
3. Is the predominance of girls or boys due to the way counselors discuss this class with students or the advice they offer to students interested in enrolling? Yes No

D. INSTRUCTIONAL BIAS

1. Do the criteria for grades or skill grouping tend to benefit one sex more than the other? Yes No
2. Does the instructor seem to have greater difficulty teaching either girls or boys? Yes No
3. Is discipline handled differently for girls and boys? Yes No
4. Is content of the course biased in favor of the interests of either girls or boys? Yes No

COMPLETED BY:

(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools; Portland State University; Portland, Oregon.

CORRECTIVE ACTION GUIDE: FORMAL RESTRICTIONS/REQUIREMENTS

REFER TO:		
	Title IX Regulation:	§86.34
	Achieving Sex Equity	Tables 1 and 2
	District Materials:	Graduation Requirements
		Course Descriptions/Catalogs
		Student Handbooks

If you indicated in Table 2 that there is any course in your district which is limited to single-sex participation, conducted separately on the basis of sex or required of members of only one sex, these policies must be changed as soon as possible.

With the exception of secondary physical education classes, which were given an extended period in which to be made coeducational, it has been illegal to offer classes which are not coeducational since July 21, 1976. Secondary physical education classes are required to be coeducational after July 21, 1978. It will be necessary to formally remove restrictions and requirements which are based on sex and implement policies which do not differentiate students on the basis of sex in graduation requirements or access to programs of study. How this is done is left to the discretion of the district, as long as the effect is not to limit or require participation on the basis of sex.

For example, many districts have had graduation requirements which required home economics of girls and shop of boys. In correcting this discriminatory policy, districts have chosen several options:

- Some have required that all students take a certain number of courses in either home economics or shop.
- Some have required that all students take one home economics and one shop course.
- Some have developed new courses such as "Education for Living" which include elements of both home economics and shop courses.
- Still others have divided semesters into shorter coeducational components of shop and home economics, in order to provide an introduction for a larger number of students.

All of these options are acceptable; there are probably several others which would meet the requirements of both the Title IX Regulation and the resources and objectives of an individual school district. Any solution to this kind of problem is satisfactory as long as it assures equal access to all classes to both female and male students.

When such changes are made, course descriptions and graduation requirements may need to be changed in student handbooks and other written materials. It is especially important that counselors and others who assist students in course selection and scheduling be informed of these changes and asked to ensure that students are aware that course restrictions and requirements based on sex have been removed.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Access to Courses* section.

CORRECTIVE ACTION GUIDE: BIASED PRESENTATION

REFER TO:		
	Title IX Regulation:	§86.34
	Achieving Sex Equity	Tables 1 and 2
	District Materials:	Course Descriptions/Catalogs
		Student Handbooks

Course names and descriptions often suggest to students that certain courses are more appropriate for girls or for boys. This is caused by the use of terms which are considered feminine or masculine, rather than more neutral terms which apply equally well to girls and boys. Young people are especially sensitive to such cues and can be discouraged from entering a class by biased language.

In order to assure equal access to classes, these cues should be removed from student handbooks and other sources of information about course offerings. The chart below is provided as a guide for reviewing course names and descriptions and for rewriting them in an unbiased way.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Access To Courses* section.

EXAMPLES FOR CHANGING COURSE DESCRIPTIONS

BIASED LANGUAGE	→	UNBIASED LANGUAGE
ADJECTIVES		
Bachelor Cooking		Cooking for Single Living, Survival Cooking
Powderpuff Mechanics		Do-It-Yourself Mechanics
PRONOUNS		
"The young scientist . . . his . . ."		"The young scientist . . . her or his . . ." "The young scientist . . . her/his . . ." "The young scientist . . . they . . ."
"The teacher . . . she . . ."		"The teacher . . . she or he . . ." "The teacher . . . she/he . . ." "The teachers . . . they . . ."
NOUNS		
"To prepare students for the responsibilities of motherhood . . ."		"To prepare students for the responsibilities of parenthood . . ."
Slimnastics, Bodybuilding		Physical Fitness

CORRECTIVE ACTION GUIDE: SCHEDULING

REFER TO: Title IX Regulation: §86.34
Achieving Sex Equity: Tables 1 and 2
District Materials: Course Descriptions/Catalogs
Student Handbooks
Scheduling Procedures

Prerequisites which have a differential effect on one sex may be the cause of disproportionate enrollment in some classes.

For example, a girl may be unable to take a junior Metals class because she has not completed Beginning Shop. She may not have completed Beginning Shop for several reasons which constitute discrimination: because, at that time, shop classes were closed to girls, or the counselor discouraged her from enrolling, or perhaps because that year she was required to take Beginning Home Economics.

Where prerequisites are found which have the effect of limiting the participation of either girls or boys, efforts should be made to accommodate interested girls and boys who do not have the required experience. The following questions provide a starting point:

- What are the skills or knowledge from the previous course that are absolutely crucial for this course?
- Could these skills or knowledge have been acquired through other experiences which could substitute for the course?
- Could the necessary skills and knowledge be built into the present course for those students requiring it?
- Is a tutoring program—perhaps a peer tutoring program—a possibility?
- Is there a sufficient number of students in the same situation to warrant a special remedial course?

Scheduling of courses—especially in smaller schools—may have the effect of limiting participation in classes by boys or girls. When "Boys' classes" and "girls' classes" are scheduled opposite each other, students may be prevented from taking advantage of some classes. For example, scheduling a beginning home economics course at the same time as a beginning shop course might have the effect of forcing a student into an either/or choice regarding home economics and shop which is not necessary.

Scheduling classes is very complicated and often there is limited flexibility for administrators. However, where scheduling is indicated as a major reason for the absence of girls or boys from a class, the possibility of designing the schedule differently next time in order to avoid these conflicts should be fully explored.

Counseling is very central to the issue of equal access to courses. Even where care has been given to removing restrictions and examining such things as course descriptions and prerequisites, counseling which is based upon sex role stereotypes rather than consideration of individual potential will perpetuate discrimination. Because counseling is so important, it is covered in greater detail in another section of the Regulation (§86.36) and of *Achieving Sex Equity.*

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Access to Courses* section.

CORRECTIVE ACTION GUIDE: INSTRUCTIONAL BIAS

REFER TO: Title IX Regulation: §86.34
Achieving Sex Equity: Tables 1 and 2
District Materials: Curriculum Guides (Outlining content, activities or methodologies of courses)

Instructional bias can be very difficult to assess, because it can be both subtle and pervasive. It may be found in any class, but it is especially a problem in classes which used to be considered "girls' classses" or "boys' classes."

It is especially important to examine the possibility of instructional bias in a class where enrollment becomes more disproportionate as the term goes on, because students in the minority are dropping or transferring.

In examining courses for instructional bias, it is important to consider course content, assessment, teacher behavior and discipline.

Course content which addresses the interests and needs of only half the potential students is biased. This could be a matter of insisting on aprons as the first sewing assignment or perhaps a history course which minimizes the role of women. Some aspects of biased content are easily seen and corrected; sewing students could be given a choice of simple garments as their first project. Others are more difficult; what was the role of women in history? Most history teachers received a biased education themselves and must use biased textbooks until better ones are available. Supplementing the history course will require new information and resources.

Assessment criteria for skill grouping or grading can be discriminatory if they have a differential impact on one sex; that is, if they tend to sort students by sex. If most skill groups are dominated by one sex or if most of the A's and B's go to either girls or boys, there is reason to investigate further. Sometimes criteria—especially for grouping—can be very subjective, based on generalizations about female and male interests and abilities. In other cases, the criteria may seem to be very objective yet penalize one group of students.

Teaching behavior can also be biased. This ranges from differential expectations for girls and boys which operate at an almost unconscious level to the rare cases of open harassment. In either case, it can be a difficult issue to address, especially with colleagues. At the same time, the classroom is ultimately the place where equal opportunity must be provided. Administrative intent must be translated into opportunities for students by the instructional staff.

The issue of nonsexist teacher attitudes and behavior, as well as those of nonsexist course content and assessment criteria, are topics many districts identify as inservice needs when they complete their Title IX self-evaluations. See the Resources section (Section VII) for a list of agencies which are funded to provide such assistance to school districts.

Discipline is covered in another section of the Title IX Regulation (§86.31) and *Achieving Sex Equity*. See the Treatment of Students Section.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of *Access to Courses* section.

DATA COLLECTION: ACCESS TO COURSES

TABLE 3 CURRENT ENROLLMENT IN PHYSICAL EDUCATION COURSES

INSTRUCTIONS: Record the name and description of each Physical Education course currently offered. Convert actual numbers of girls and boys enrolled into percentages by dividing each by the total number of students enrolled in the course. Whenever either of these percentages is 80% or more, indicate this by placing a check (✓) in the last column. Complete one form for each junior and senior high school, recording data for the current term. Refer to the *Corrective Action Guide* for *Physical Education* on the following page for assistance in evaluating this information.

COURSE NAME AND DESCRIPTION	ENROLLMENT		CHECK HERE
	% FEMALE	% MALE	

COMPLETED BY _____

(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: PHYSICAL EDUCATION

REFER TO:		
	Title IX Regulation:	§86.34
	OCR Memorandum,	*Subject: Elimination of Sex Discrimination in Athletic Programs*
	Achieving Sex Equity:	Table 3
	District Materials:	Course Description/Catalogs Description of criteria for grouping students for physical education activities Description of grading criteria

After July 21, 1978 it is no longer permissible to conduct physical education classes separately for girls and boys at any grade level. Although elementary classes in physical education were required to be coeducational by July 21, 1976, the Regulation provided an additional two-year period for secondary physical education classes.

Although all physical education classes must be open to both girls and boys and conducted coeducationally, the Regulation permits separation by sex which will be the result of:

- the grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance (use of such standards may result in groups composed primarily of students of one sex).

- the separation of students during physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball and other bodily contact sports.

- the separation of students for portions of classes which deal exclusively with human sexuality.

It is important to note that ability grouping or sex separation must be decided on an activity-by-activity basis. Objective standards legitimate for grouping students for volleyball are not the same as those useful for track and field activities, nor is it permissible to use a single general fitness standard for grouping in all activities. The physical growth and development patterns of boys and girls would suggest that the likelihood of sex segregation through ability grouping would be very limited at the elementary level but possibly more frequent at the secondary level. Further, separation of females and males for participation in contact sports may occur during that participation only; segregation of students for an entire semester because four weeks are spent in a unit on basketball would be in violation of the Regulation.

The Regulation also requires that where a single standard for measuring skill or progress in a physical education class has an adverse impact on members of one sex, a different standard or standards which do not have such effects must be used. Either separate standards must be adopted for girls and boys or a single standard measuring individual improvement must be used. The ultimate goal of program modifications at all levels would be to eliminate the arbitrary imposition of differential requirements which are based exclusively on the sex of students without regard for student interest or ability or for the goals of physical education for all students.

Table 3 assembles the information needed to assess current compliance status and to begin the modifications which will bring the physical education program into full compliance.

CORRECTIVE ACTION GUIDE: PHYSICAL EDUCATION *(Continued)*

Classes which are currently restricted to members of one sex will have to be replaced by coeducational offerings for the 1978-1979 academic year. This may necessitate changes in the content of courses taught, in teaching assignments and in scheduling procedures. Students must be informed of the removal of these restrictions through the written course descriptions and persons who assist students in course selection and scheduling should ensure that students are aware of the changes.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Access to Courses* section.

DATA COLLECTION: ACCESS TO COURSES

TABLE 4 CURRENT ENROLLMENT IN SPECIAL EDUCATION PROGRAMS

INSTRUCTIONS: Enter the name and description of each class or program which serves students who have special needs. Enter, also, the names and descriptions of classes or programs conducted by another education agency (such as the intermediate district) in which students from your district participate. Convert actual numbers of girls and boys enrolled in each program by dividing each by the total number of students enrolled in that program. Whenever one of these percentages is 80% or more, indicate this by placing a check (✓) in the last column. Complete one form for the school district, recording data for the current term. Refer to the *Corrective Action Guide* for *Special Education Programs* on the following page for assistance in evaluating this information.

PROGRAM NAME, DESCRIPTION AND LOCATION	ENROLLMENT		CHECK HERE
	% FEMALE	% MALE	

COMPLETED BY _____

(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: SPECIAL EDUCATION PROGRAMS

REFER TO: Title IX Regulation: §86.34, §86.31(d), §86.36(b)
Achieving Sex Equity Table 4

The Title IX Regulation covers all education programs operated by the school district, including special education programs. In addition, under Section 86.31(d) of the Regulation, the district's responsibility for identifying and correcting sex discrimination extends to programs not wholly operated by the school district in which students are required to participate or which are considered part of or equivalent to a district education program. This means that even if special education is provided by another education agency, e.g., an intermediate education agency, the school district is responsible for ensuring that these students do not experience sex discrimination.

If you indicated that any of the special education programs listed in Table 4 are predominately (80% or more) female or male, you should determine and correct the reason for this. Three posssible reasons are listed below:

(1) Formal separation of girls and boys for special education programs. This is explicitly prohibited in the the Title IX Regulation, §86.34. For more information, refer to the *Corrective Action Guide* for *Formal Restrictions/Requirements* in this section.

(2) Sex bias in referrals. It is possible that teachers and others who refer students for special education classes are doing so on the basis of subjective criteria which may be based at least in part on generalized assumptions about girls and boys. This may particularly be a problem in relationship to the areas of learning disabilities, which may be confused with behavior problems. For more information, refer to the *Corrective Action Guide* for *Instructional Bias and Counseling Practices and Procedures.*

(3) Sex bias in appraisal instruments. It is possible that screening instruments treat students differently on the basis of sex in test administration, scoring or interpretation. Use of such tests and appraisal instruments is prohibited in §86.36(b) of the Regulation. For more information, refer to *Data Collection* Table 7, *Evaluation of Sex Bias in Appraisal Instruments.*

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Access to Courses* section.

COMPLIANCE RECORDS

INSTRUCTIONS: For each area of this guide, enter the corrective action steps to be undertaken. Complete different forms for corrective action steps to be undertaken at the district level and corrective action steps to be undertaken in individual school buildings. Differentiate these forms by marking the appropriate box below. Identify the area to which this record applies, e.g., Athletics, in the space labeled "Compliance Area." As soon as corrective steps are identified, enter these in the first column. Make these as specific as possible. For example, rather than entering "equalize the equipment available for girls' and boys' basketball teams," identify specific actions to be taken, such as "purchase three Wilson basketballs for the girls' basketball team." Then enter the name of the person responsible for each action and the date the action is to be completed. Later, enter the date the action was in fact completed, the location of supporting documentation and any comments regarding this action which seem relevant. Such comments might include changes which were made in the planned corrective steps or problems which arose in completing the actions on schedule.

COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools; Portland State University; Portland, Oregon.

COMPLIANCE RECORDS

INSTRUCTIONS: For each area of this guide, enter the corrective action steps to be undertaken. Complete different forms for corrective action steps to be undertaken at the district level and corrective action steps to be undertaken in individual school buildings. Differentiate these forms by marking the appropriate box below. Identify the area to which this record applies, e.g., Athletics, in the space labeled "Compliance Area." As soon as corrective steps are identified, enter these in the first column. Make these as specific as possible. For example, rather than entering "equalize the equipment available for girls' and boys' basketball teams," identify specific actions to be taken, such as "purchase three Wilson basketballs for the girls' basketball team." Then enter the name of the person responsible for each action and the date the action is to be completed. Later, enter the date the action was in fact completed, the location of supporting documentation and any comments regarding this action which seem relevant. Such comments might include changes which were made in the planned corrective steps or problems which arose in completing the actions on schedule.

COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

II

COUNSELING AND GUIDANCE

COUNSELING AND GUIDANCE

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COUNSELING AND GUIDANCE

Evaluation of Counseling and Guidance policies and practices follows logcially from an evaluation of access to classes. In fact, the Title IX Regulation provides that: that:

> Where a (school district) finds that a particular class contains a substantially disproportionate number of individuals of one sex, the (school district) shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors (§86.36).

Section 86.36 also provides that:

> A (school district) shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.
>
> A (school district) which uses testing or other materials for appraising or counseling student shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such materials is shown to be essential to eliminate sex bias. (School districts) shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the (school district) shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

The basic principle underlying this section of the Regulation is that all students should be provided with counseling and guidance services which are free of sex role stereotyping and which enable them to make appropriate choices based on individual interests and abilities. This means that the school is obligated to identify and correct the ways in which counseling and guidance materials, appraisal instruments, procedures or practices tend to restrict individual choices through the application of generalized assumptions about the educational and career interests and abilities of girls and boys.

The data collection tables and corrective action guides in this section are designed to assist school personnel in this identification and correction task. These materials focus on four areas: the provision of counseling and guidance services, counseling and guidance materials, test and nontest appraisal instruments and counseling practices and procedures.

Evaluation of the provision of counseling and guidance services involves an analysis of the utilization of these services by girls and boys in order to identify any patterns based on sex and an exploration of alternative explanations for such sex-based utilization patterns.

Guidelines for evaluating sex bias in counseling and guidance materials are provided, along with suggestions for corrective action where these materials are identified as sex-based. Such materials often reinforce, either directly or indirectly, assumptions that certain behaviors, academic choices or career choices are more appropriate for either females or males. Such messages have the effect of restricting the set of options from which an individual student feels free to choose in making important decisions regarding school and plans beyond school.

This limitation of options inhibits equal educational opportunity and is sex-discriminatory.

Appraisal instruments also can function to limit the options provided to students. Sex role stereotypes are manifested in test and nontest materials used by school counselors. The most obvious example is occupational interest inventories which list separate occupations by sex and fail to offer a complete range of occupational choices to females; many require differential scoring and interpretation of male and female responses.[1] Bias in other appraisal instruments is less easily identified and corrected. This section provides some guidelines which school counselors can use to identify biased instruments and to take steps to correct this bias.

Research indicates that sex role stereotypes, though largely inaccurate, are frequently reflected in the behavior of counselors. Both male and female counselors have distinct and preconceived attitudes regarding the levels and types of occupations appropriate for females, both college and non-college bound.[2] Both female and male counselors rate females with non-traditional career goals as more in need of counseling than those with goals conforming with traditional concepts of femininity.[3] These attitudes and beliefs operate to restrict the opportunities of female students, just as traditional concepts of appropriate masculine behavior and careers similarly operate to limit the academic and personal options of male students. This section includes some guidelines for evaluating counselor behaviors for sex bias as well as suggestions for assisting counselors in developing non-sexist counseling techniques.

[1]Tittle, Carol K., *Women and Educational Testing: A Selective Review of the Research Literature and Testing Practices*, January 31, 1973.

[2]Friedersdorf, Nancy, *A Comparative Study of Counselor Attitudes Toward The Further Educational and Vocational Plans of High School Girls*, Purdue University, 1970.

[3]Thomas, Arthur and Stewart, Norman, "Counselor Response to Female Clients with Deviate and Conforming Career Goals," *Journal of Counseling Psychology*, 1971, Vol. 18, No. 4, pp. 353-357.

DATA COLLECTION: COUNSELING AND GUIDANCE

TABLE 5 PROVISION OF COUNSELING SERVICES

INSTRUCTIONS: If there are records of counseling contacts by sex of student, nature of contact and initiation of contact for the current academic year, enter this data for each counselor as indicated below. If such records do not exist, give each counselor (or other person responsible for providing counseling and guidance services) a copy of this form and ask her or him to tabulate contacts with students for a period of two weeks in order to complete the form. Choose a two-week period which is as typical as possible. For example, avoid such periods as those in which counselors must devote all their time registering students for the upcoming term, and the first or last two weeks of the academic year. Ask each counselor to keep a running record of the number of girls and number of boys in each of the cells of the table, e.g., "Course Selection/Initiated by Counselor." At the end of the tabulation period, sum the girls and boys in each cell and divide the subtotal for each sex by the total to find the percentages of girls and boys in each cell. Enter these percentages in the table as indicated below. Complete one form for each counselor. Refer to the *Corrective Action Guide* for *Provision of Counseling Services* on the following page for assistance in evaluating this information.

NATURE OF CONTACT	INITIATION OF CONTACT					
	INITIATED BY COUNSELOR		REFERRAL BY OTHER SCHOOL STAFF		INITIATED BY STUDENT/PARENT	
	% GIRLS	% BOYS	% GIRLS	% BOYS	% GIRLS	% BOYS
COURSE SELECTION/ SCHEDULING						
TEST ADMINISTRATION AND INTERPRETATION						
ACADEMIC COUNSELING						
PERSONAL COUNSELING						
CAREER COUNSELING: OCCUPATION/VOCATIONAL						
CAREER COUNSELING: POST-SECONDARY EDUCATION						

COMPLETED BY:

(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools; Portland State University; Portland, Oregon.

CORRECTIVE ACTION GUIDE: PROVISION OF COUNSELING SERVICES

REFER TO: Title IX Regulation: §86.36
Achieving Sex Equity: Table 5
District Materials: Written descriptions of counseling services
Procedural documents for counselors

The purpose of Table 5 is to assemble the information needed to determine whether counseling services are provided equitably to both girls and boys.

Wherever the recipients of a category of counseling services are predominantly female or male, you should investigate the reason for this.

Such disproportionate use of counseling could be a result of student, teacher and parent perceptions of the value of different kinds of counseling and their availability to students. If there are written materials about counseling services, these should be reviewed to make sure that they make it very clear that **all** counseling services are available to **all** students, regardless of sex.

They should also be scrutinized for suggestions about the value of certain kinds of counseling for girls and boys. For example, personal counseling is often perceived as more appropriate for girls than for boys. On the other hand, boys may more likely be urged to seek vocational or college counseling. Descriptive materials might reinforce such perceptions through illustrations, examples or the use of feminine and masculine terms instead of neutral words which apply equally to both sexes.

Students may need to be informed that, not only are all counseling services available to all students, but that every student can benefit by taking advantage of the various counseling services.

Counselors themselves may need to be reminded of this. All manuals, procedural guidelines and other documents outlining the responsibilities of counselors or guidance personnel should include information about the implications of Title IX for counselors and their responsibility to provide counseling which is free of sex discrimination. This should also include a discussion of the way sex role stereotypes can influence the academic, career and personal choices of young people and why this reduction of options is harmful to individuals.

The same differential perceptions of the need for or value of counseling services may be operating in counseling referrals. If the referrals develop patterns based on sex, perhaps those people referring students also need the information discussed above.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Counseling and Guidance* section.

DATA COLLECTION: COUNSELING AND GUIDANCE

TABLE 6 EVALUATION OF SEX BIAS IN COUNSELING MATERIALS

INSTRUCTIONS: Evaluate existing materials used in counseling and guidance, including commercially produced items, as well as materials developed by the counselors themselves. In the second column, list materials in which you identify any of the indicators described. Complete one form for each counselor; then refer to the *Corrective Action Guide* for *Counseling Materials* on the following page for assistance in evaluating this information.

INDICATORS OF BIAS IN COUNSELING MATERIALS	COUNSELING MATERIALS WHICH HAVE BIAS
1. Suggestions that certain career, occupational or vocational choices are more appropriate for members of one sex, either: • *Implicitly*, through the use of feminine and masculine nouns, pronouns and adjectives, rather than neutral terms which would apply equally to females and males. Example: "A stewardess has many travel opportunities in her job," rather than "There are many travel opportunities associated with the job of flight attendent." • *Explicitly*, in the written text. Example: "Nursing is a rewarding career for women interested in medicine," rather than "Nursing is one of many rewarding careers for the young person interested in medicine." • *Implicitly or explicitly*, through the use of illustrations which depict women and men in traditional occupational roles only. 2. Suggestions that it is more important for girls to consider compatibility with marriage and family responsibilities when choosing a career. 3. Presentation of a much broader range of occupational choices for one sex than for the other. 4. Suggestions that certain behaviors, activities or interests are inherently feminine or masculine.	

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: COUNSELING MATERIALS

REFER TO: Title IX Regulation: §86.36
Achieving Sex Equity: Table 6
District Materials: All materials used in counseling and guidance

Counseling materials encompass a wide variety of materials, ranging from professionally produced multi-media guidance kits to give-away brochures from business and professional organizations and the military services. They also include materials developed by counselors themselves. All of these can influence important decisions in the lives of the young people who are exposed to them.

In order to ensure that these decisions are made after consideration of the full array of options available, all of these materials should be evaluated for biased presentation of academic, personal and occupational information.

Employment has been clearly segregated by sex; though this is now changing somewhat, most occupations continue to be dominated by either women or men. This means that most jobs are identified in people's minds as a woman's occupation or a man's occupation. Talking about beauticians or librarians, for example, most people naturally use the female pronoun, "she," even though the generic pronoun in English is "he." Similarly, female pronouns which refer to mechanics or doctors surprise the listener.

These associations are, naturally, extended to the educational preparation for these occupations. Combined with some standard assumptions about female and male abilities, interests and social/family roles, these occupational images can greatly influence decisions about courses of study and career and life goals. If counseling materials reinforce sex role stereotypes, they limit students' choices.

In using materials which help students learn to make decisions and solve problems, counselors might examine the content, particularly illustrative examples, which cast females and males into stereotyped roles of followers and leaders, as well as stereotyped passive and active behavioral patterns. These kinds of materials pervasively reinforce assumptions about the appropriateness of roles and behaviors for females and males, resulting in the perpetuation of sex role stereotyping.

Table 6 provides a starting point for evaluating counseling materials for sex bias. Materials which contain any of the indicators of bias need to be considered for corrective action.

Depending on the nature of the materials in question, there are several possible actions for items found to be biased:

(1) Discard the item
(2) Replace it with bias-free material which presents the same information
(3) Retain the item and ask counselors to compensate for bias in their use of the materials
(4) Revise or supplement the material.

Each item identified as biased in its presentation of academic, personal and occupational choices should be considered individually. Which of the above alternatives you choose will depend on such factors as the necessity of the item, cost of replacement, ex-

pertise for revision and counselor skills. For some items, you might identify an interim action, such as providing inservice training for counselors in revising and supplementing biased materials while scheduling replacement when funds are available.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Counseling and Guidance* section.

DATA COLLECTION: COUNSELING AND GUIDANCE

TABLE 7 EVALUATION OF SEX BIAS IN APPRAISAL INSTRUMENTS

INSTRUCTIONS: This form provides guidelines for the evaluation of test and nontest appraisal instruments used in counseling and guidance in order to identify those which will require corrective action. In the last column, list the instruments currently used which have any of the indicators described. Complete one form for each counselor for each school building or for the district, depending on how testing activities are organized. Then refer to the *Corrective Action Guide* for *Appraisal Instruments* on the following page for assistance in evaluating this information.

INDICATORS OF BIAS IN TESTING	INSTRUMENTS WHICH MAY HAVE BIAS
1. Different administration procedures for girls and boys.	
2. Different instructions for girls and boys.	
3. Different test forms for girls and boys.	
4. Different scoring procedures for girls and boys.	
5. Different interpretative guidelines for girls and boys.	

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: APPRAISAL INSTRUMENTS

REFER TO: Title IX Regulation: §86.36(b)
Achieving Sex Equity: Table 7
District Materials: Test and Nontest Appraisal Instruments

The Title IX Regulation prohibits the use of different forms of tests or appraisal materials for females and males, as well as the use of testing materials which treat females and males differently, unless it can be demonstrated that the different materials cover the same occupational and interest areas and that the use of these materials is essential to the elimination of sex bias.

Test and nontest appraisal instruments used in counseling and guidance may discriminate on the basis of sex. For example, achievement tests may contain bias in content and language, while occupational interest inventory results are often presented through different lists of traditional occupations for males and females as well as requiring that male and female responses be scored and interpreted differently.

Instruments which report student scores in terms of male and female preferences should be examined for bias. The lists of preferences and interests upon which scores have been scaled are usually formed from outdated information about female participation in the paid labor force. Thus, female lists usually contain a majority of interests associated with occupations which often require nurturing kinds of behavior or artistic skills related to homemaking, or those occupations providing little or no opportunity for the development or utilization of skills providing mobility to higher-status/higher wage positions. On the other hand, male preference lists generally contain interests associated with occupations which require initiative, ingenuity and leadership skills.

If you indicated in Table 7 that any of the appraisal instruments you use treat students differently by sex, you will need to know if these instruments:

(a) specify procedures for the nondiscriminatory administration and interpretation of the instrument;

(b) indicate the sex composition of the norm group so that you know whether the test was normed on a population similar to the one you are testing;

(c) provide you with a technical rationale as well as information on how to use and interpret separate-sex and/or combined-sex scores.

If this information, which would enable you to administer and interpret the test in a nondiscriminatory manner, is not provided, suggested alternative actions are:

(a) contact the publisher to see if this information is available;

(b) contact the Association for Measurement in Education and Guidance for more information (American Personnel and Guidance Association, 1607 New Hampshire Avenue, NW, Washington, D.C. 20009);

(c) seek assistance from the testing specialist in the district, the intermediate education district or the state department of education.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Counseling and Guidance* section.

CORRECTIVE ACTION GUIDE: COUNSELING PRACTICES AND PROCEDURES

REFER TO: Title IX Regulation: §86.36
Achieving Sex Equity: Table 5-7
District Materials: Procedural guidelines for counselors

Sex Bias in counseling and guidance is much like instructional bias; it is both subtle and pervasive. And, like teaching practices, counseling practices are difficult to assess.

However, because counselors are resource people for students and their parents, as well as for their peers on the teaching faculty, it is particularly important they be aware of their obligation under Title IX of what constitutes sex-fair counseling and guidance practices.

Sex-biased counseling is counseling based on generalized assumptions about the nature of female and male interests and abilities as well as appropriate occupational and social/family roles for females and males. All of us share these assumptions to some extent, and few of us see them operating in our interactions with young people. Biased counseling is as likely to occur during elementary guidance sessions as in formal and informal interractions with students during career exploration classes in upper grades. This makes identifying sex bias in counseling and guidance more difficult but no less important.

Sex-fair counseling is counseling which assists a young person in realizing her or his full potential by presenting a full array of options from which to choose, rather than just the "feminine" or "masculine" half of the picture. For example, in the past, young people interested in medicine were arbitrarily channeled into nursing or into doctoring on the basis of sex. Though nursing continues to be female dominated and more doctors are male, both these situations are changing; perpetuating the sex role stereotypes associated with nursing and doctoring penalize the young woman or man who wishes to pursue the nontraditional career. A career choice is more realistically considered on the basis of the investment in education, nature of the work and expected responsibilities and rewards associated with each career in relation to the aptitudes, resources and interests of the individual in question.

Following is a list of suggested strategies which would facilitate sex-fair counseling practices and which could be a part of your Title IX compliance activities:

- Discuss Title IX and the coverage of counseling in the Regulation with counselors so they understand their obligation and role in ensuring equal education opportunity.

- Ask counselors themselves to evaluate the materials they use in counseling and guidance, using the forms provided in this guide. This make sense because they are most familiar with these materials and it may increase their awareness of the subtle sex biases which reinforce similar assumptions they themselves make about girls and boys.

- Show the counselors the resource bibliography in Section VII of *Achieving Sex Equity* and help them identify additional resource materials.

- Arrange for inservice training for counselors—perhaps along with the teaching staff—dealing with sex-role stereotyping in schools.

Finally it is equally important that others in the educational environment who assist students in making academic, vocational and personal decisions understand the nature of sex-role stereotyping and how these underlying assumptions can limit the development of individual potential.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Counseling and Guidance* section.

COMPLIANCE RECORDS

INSTRUCTIONS: For each area of this guide, enter the corrective action steps to be undertaken. Complete different forms for corrective action steps to be undertaken at the district level and corrective action steps to be undertaken in individual school buildings. Differentiate these forms by marking the appropriate box below. Identify the area to which this record applies, e.g., Athletics, in the space labeled "Compliance Area." As soon as corrective steps are identified, enter these in the first column. Make these as specific as possible. For example, rather than entering "equalize the equipment available for girls' and boys' basketball teams," identify specific actions to be taken, such as "purchase three Wilson basketballs for the girls' basketball team." Then enter the name of the person responsible for each action and the date the action is to be completed. Later, enter the date the action was in fact completed, the location of supporting documentation and any comments regarding this action which seem relevant. Such comments might include changes which were made in the planned corrective steps or problems which arose in completing the actions on schedule.

COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

COMPLIANCE RECORDS

INSTRUCTIONS: For each area of this guide, enter the corrective action steps to be undertaken. Complete different forms for corrective action steps to be undertaken at the district level and corrective action steps to be undertaken in individual school buildings. Differentiate these forms by marking the appropriate box below. Identify the area to which this record applies, e.g., Athletics, in the space labeled "Compliance Area." As soon as corrective steps are identified, enter these in the first column. Make these as specific as possible. For example, rather than entering "equalize the equipment available for girls' and boys' basketball teams," identify specific actions to be taken, such as "purchase three Wilson basketballs for the girls' basketball team." Then enter the name of the person responsible for each action and the date the action is to be completed. Later, enter the date the action was in fact completed, the location of supporting documentation and any comments regarding this action which seem relevant. Such comments might include changes which were made in the planned corrective steps or problems which arose in completing the actions on schedule.

COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

III

TREATMENT OF STUDENTS

TREATMENT OF STUDENTS

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TREATMENT OF STUDENTS

In prohibiting discrimination on the basis of sex in the treatment of any student in an education program or activity, §86.31 (a) of the Regulation implementing Title IX generally provides that:

> No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives or benefits from Federal financial assistance.

Section 86.31 (b) of the Regulation specifically requires that:

> In providing any aid, benefit or service to a student, a recipient shall not, on the basis of sex:
>
> (1) treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit or service;
>
> (2) provide different aid, benefits or services or provide aid, benefits or services in a different manner;
>
> (3) deny any person any such aid, benefit or services;
>
> (4) subject any person to separate or different rules of behavior, sanctions or other treatment;
>
> (5) discriminate against any person in the application of any rules of appearance;*
>
> (7) aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;
>
> (8) otherwise limit any person in the enjoyment of any right, privilege, advantage or opportunity.

*Number 6 is omitted because it is not relevant to most elementary/secondary education agencies.

The basic intent of these portions of the Title IX Regulation is to ensure that female and male students are provided equal benefits, opportunities and responsibilities throughout the many programs and activities offered by the school district.

This section of *Achieving Sex Equity* addresses several aspects of school life outside the classroom which have been brought together under the general label of Student Treatment. The data collection tables and corrective action guides which follow concern the following topics: student employment; extracurricular activities; student awards, prizes and honors; discipline; and financial assistance.

In addition to the specific prohibitions regarding student treatment listed above, the Title IX Regulation includes additional provisions covering student employment both within

the school and, where by the school, employment outside the school. The school district is required under Title IX not only to assure itself that it is not discriminating against students on the basis of sex in its own employment of students; the district has an obligation also to ensure that outside employers whom it assists in employing students do so in a manner which does not discriminate on the basis of sex.

Differential treatment of students based on sex in extracurricular activities and in students' awards and honors not only denies or limits the access of girls and boys to these benefits, but serves to reinforce and institutionalize differential expectations based on sex which are derived from sex role stereotypes. Thus, discrimination in extracurricular programs and activities constitutes a part of the "hidden curriculum" of schools which establishes the parameters of academic, career and personal options available to each student on the basis of the students' sex. Such restrictions unfairly limit the ability of the student to fully explore and develop individual interests and abilities both during the school years and throughout life.

Disciplinary and dress standards which are different for girls and boys, or which are applied differentially on the basis of sex, also reinforce this hidden curriculum by communicating to students that standards for responsible citizenship within the school are somehow different if you are a girl rather than a boy, or a boy rather than a girl.

Inequity in the award of financial assistance for higher education is both a matter of the institutionalization of differential reward systems for girls and boys and a very real matter of depriving individuals of the opportunity to attain the educational preparation for a rewarding life-time career. Title IX includes specific guidelines for ensuring that equally qualified girls and boys have an equal opportunity to obtain this assistance.

All of the areas referred to above are dealt with in greater detail in the materials which follow in this section. One aspect of student treatment which is very important, but for which there is no data collection/analysis process in these materials, relates to the marital and parental status of students.

Section 86.40 of the Title IX Regulation provides that:

> a recipient shall not apply any rule concerning a student's actual or potential parental, family or marital status which treats students differently on the basis of sex.

This means that any district policies governing the participation of married students or students who are parents must apply equally, both in theory and in practice, to both female and male students who are married and to both fathers and mothers who are students.

Regarding pregnancy and related conditions, this section further provides that:

> (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extra-curricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in subparagraph (1) of this paragraph, shall ensure that the instructional program in the separate program is comparable to that offered to nonpregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

Many school districts have traditionally held policies which have treated pregnancy and related conditions differently from other medical conditions affecting students. Such policies must be reviewed in light of these provisions of the Title IX Regulation and, where they are identified to be prohibited, these policies must be replaced by policies which comply with these provisions. These provisions clearly indicate that no student shall be denied her educational opportunities on the basis of pregnancy.

When considering the district's obligation to eliminate differential treatment of students on the basis of sex, it is important to be aware of the fact that the Regulation extends the districts' obligation beyond those programs and activities which it operates solely and requires that the district assure itself that students do not experience discriminatory treatment in programs or activities which are operated by other agencies but which are assisted by or associated with the school.

Two very important provisions of the Regulation must be kept in mind when evaluating programs and activities for nondiscriminatory student treatment. Both are contained within section 86.31 of the Regulation.

The first of these provisions is cited above but merits further explanation. Section 86.31(b)(7) provides that a school district shall not:

> aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees.

This means that the school district is prohibited from providing significant assistance to any program or activity involving either its students or its employees in which they experience sex discrimination provided by the Office for Civil Rights. If a school provides meeting space for any group which requests it on an equal basis, the provision of meeting space alone does not constitute significant assistance. Assistance would be considered significant, however, if it involves the regular or preferential use of school facilities, the services of administrative staff, the provision of a faculty sponsor or advisor, provision of school funds, use of the mail service, space in the school catalog or special recognition for organization members. This provision is particularly relevant to extracurricular activities but could also be interpreted to apply to many other areas as well, including student employment, student awards, prizes and honors, as well as awards of financial assistance.

The second provision to keep in mind is found in section 86.31(d), "Programs not operated by recipient:"

> This paragraph applies to any recipient which requires participation by any applicant, student or employee in any education program or activity not wholly operated by such recipient, or which facilitates, permits or considers such participation as part of or equivalent to an education program or activity operated by such recipient, including participation in educational consortia and cooperative employment and student-teaching assignments.

This means that the school district has a responsibility to ensure that students and employees do not experience sex discrimination in programs which are considered to be equivalent to or part of its education program or in programs where the participation of students or employees is required, facilitated or permitted by the school district. All such associative or cooperative programs or activities in which the district is engaged are subject to the same provisions prohibiting sex discrimination as those programs and activities which the district operates itself, to the extent that the district's students or employees are affected. Further, this section provides that the district:

> shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student or employee of such recipient which this part (the Title IX Regulation) would prohibit the recipient from taking; and . . .
>
> shall not facilitate, require, permit or consider such participation if such action occurs.

These two provisions extend the responsibility of the school district to protect its students from sex discrimination beyond programs and activities which it solely operates and requires the district to ensure that students receive nondiscriminatory treatment in any program or activity associated with the school.

DATA COLLECTION: TREATMENT OF STUDENTS

TABLE 8 REFERRALS TO OUTSIDE EMPLOYMENT

INSTRUCTIONS: One form should be completed by each person or office responsible for referring students to outside employers. If records are available, enter data for the current school year to date, unless the school year is just beginning in which case use data for the previous year. If records are not available, begin tabulating on this form and list all referrals for at least one typical month. Refer to the *Corrective Action Guide* for *Student Employment* for assistance in evaluating this information.

NAME OF EMPLOYER/ POSITION TO BE FILLED	HOURLY WAGE OR CREDIT GRANTED	NUMBER OF STUDENTS REFERRED		STUDENT(S) HIRED	
		GIRLS	BOYS	GIRLS	BOYS

This data is for the period of time from _____ to _____

COMPLETED BY:

(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools; Portland State University; Portland, Oregon.

DATA COLLECTION: TREATMENT OF STUDENTS

TABLE 9 CURRENT EMPLOYMENT WITHIN SCHOOL

INSTRUCTIONS: Complete one form for each building in which students are employed. If students are employed in the central office, complete a form for the central office as well. Refer to the *Corrective Action Guide* for *Student Employment* for assistance in evaluating this information.

JOB CATEGORY	AVERAGE HOURLY WAGE OR CREDIT GRANTED, THIS CATEGORY	NUMBER OF STUDENTS EMPLOYED	
		GIRLS	BOYS
TOTAL NUMBER OF GIRLS EMPLOYED			
TOTAL NUMBER OF BOYS EMPLOYED			
AVERAGE HOURLY WAGE FOR GIRLS			
AVERAGE HOURLY WAGE FOR BOYS			

COMPLETED BY:

(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public School; Portland State University; Portland, Oregon.

CORRECTIVE ACTION GUIDE: STUDENT EMPLOYMENT

REFER TO: Title IX Regulation: §86.38, §86.31 (b)(2,7)(d)
Achieving Sex Equity: Tables 8 and 9
District Materials: Any existing descriptions of student employment policies or procedures.

CROSS-REFERENCES: Subpart E, Title IX Regulations: Discrimination on the Basis of Sex in Employment in Education Programs prohibited.

Schools are prohibited both from discriminating on the basis of sex in their own employment of students and from assisting an outside employer in employing students in a discriminatory manner.

Table 8 provides information about all referrals to outside employers and will enable you to identify employers who may be discriminating on the basis of sex either by hiring students of only one sex or by offering different wages to girls and boys. If a discriminatory pattern develops for a particular employer, the school should investigate further to determine whether this employer is discriminating on the basis of sex. Evaluate past records of referrals to this employer to determine whether any of the following patterns emerges:

(1) that although the district has referred both female and male qualified applicants, the employer has consistently hired predominantly either female or male students;

(2) that in requesting referrals for positions, the employer has expressed a preference for either female or male applicants;

(3) that although the employer has hired both female and male students, these students have been segregated by sex through job assignments; or

(4) that the employer has hired both female and male students but differentiates on the basis of sex in wages, either through job segregation which results in differential wages or through unequal pay for the same work.

If this evaluation identifies any of these patterns in the employer's behavior,the school district should inform the employer of the district's own policy of nondiscrimination and of its application to the employer.

In processing requests for referrals, the school may not accept requests for employees which specify sex nor may it refer students on the basis of sex. Employers who request referrals of girls or of boys must be informed of the school's obligation under Title IX to ensure that its students are not discriminated against. The job must be posted in a nondiscriminatory manner which tells students what duties must be performed and what qualifications are required. Then interested, qualified students of both sexes should be referred to the employer.

Similarly, the school itself cannot discriminate on the basis of sex in employment of its students. Table 9 will provide the information needed to determine whether any of these discriminatory situations exist in your school:

CORRECTIVE ACTION GUIDE: STUDENT EMPLOYMENT *(Continued)*

(1) More job opportunities for students of one sex through either a formal or informal identification of jobs as "girls' jobs" or "boys' jobs,"

(2) Higher wages for students of one sex as a result either of sex segregation of jobs or of unequal pay for the same work,

(3) Job segregation by sex through either the designation of certain jobs by sex or through discriminatory hiring procedures.

If any of these patterns appear in the data on student employment, the causes need to be investigated to ensure that students are not discriminated against on the basis of sex in hiring and that girls and boys performing the same job are paid the same wage.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Treatment of Students* section.

DATA COLLECTION: TREATMENT OF STUDENTS

TABLE 10 CURRENT PARTICIPATION IN EXTRACURRICULAR ACTIVITIES

INSTRUCTIONS: List all extracurricular activities, excluding athletics, which are either sponsored by the school or sponsored by an outside agency (e.g., Future Farmers of America, Key Club) which regularly uses school facilities or is assisted by the school through the provision of a faculty sponsor, use of office services or supplies, or recognition in student publications or the provision of school funds. For each of these activities, enter its name, sponsor (if other than the school) and the percentage of girls and boys participating. Convert the actual number of girls and boys currently involved into percentages by dividing each by the total number of students. For each activity listed, attach a copy of the current description of that activity's stated purpose and membership criteria. If a written description does not currently exist, request that one be developed by the faculty responsible. Complete one form for each school building. Refer to the *Corrective Action Guide* for *Extracurricular Activities* for assistance in evaluating this information.

ACTIVITY (LIST SPONSOR IF OTHER THAN SCHOOL)	PARTICIPATION		ACTIVITY (LIST SPONSOR IF OTHER THAN SCHOOL)	PARTICIPATION	
	% FEMALE	% MALE		% FEMALE	% MALE

COMPLETED BY:

(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools, Portland State University, Portland, Oregon.

CORRECTIVE ACTION GUIDE: EXTRACURRICULAR ACTIVITIES

REFER TO: Title IX Regulation: §86.31 and §86.14
Achieving Sex Equity: Table 10
District Materials: Student Handbooks, Yearbook

The Regulation implementing Title IX provides that no person shall, on the basis of sex, be excluded from, denied the benefits of or subjected to discrimination in any extracurricular activity or program operated by the school district (§86.31(a)). In addition, the district is obligated to ensure that this same provision is implemented in programs not wholly operated by the district in which students participate (§86.31(d)) and in activities sponsored by organizations outside the school which receive significant assistance from the school (§86.31(b)(7)).

Some guidelines have been provided in Office for Civil Rights case rulings for determining whether the assistance your school provides an organization is "significant." If a school provides meeting space for any group requesting it, providng meeting space alone would not constitute significant assistance. Assistance would be considered significant if it involves the regular use of school facilities, the services of administrative staff, provision of a faculty sponsor or advisor, provision of school funds, use of the mail service, space in the school catalog or special recognition for organization members.

The school district is prohibited from providing the kinds of assistance listed above to organizations which discriminate on the basis of sex against students or employees. However, the Title IX Regulation (§86.14) exempts the membership practices of certain youth organizations, which means that the school may continue its assistance to these groups. Those exempted include the YMCA, YWCA, Girl Scouts, Boy Scouts, Campfire Girls and other voluntary youth service organizations which are exempt from taxation and whose membership has traditionally been limited to members of one sex who are under 19 years of age.

With these exceptions, extracurricular activities which are operated by the school or which receive significant assistance from the school or in which students or employees are required to participate or assisted in participating should be free of sex discrimination in membership/eligibility criteria. Furthermore, girls and boys should be treated equally in these activities.

If in Table 10 you have identified an activity which is not exempted but which is not open equally to girls and boys, the membership rules of these groups must be changed to allow coeducational participation. In such cases, it would be important that students be informed of the change. Written descriptions of this group in student handbooks, yearbooks, etc., should be changed. Also, faculty and staff involved as sponsors/advisors should be made aware of the provisions of the Regulation.

In some cases, extracurricular activities which are open in membership to both girls and boys tend nevertheless to attract a membership which is predominantly of one sex. Although this may simply reflect the interests that students bring to school with them, it may also be a reflection of sex bias in course access or counseling. For example, a science club which is predominantly male may reflect the fact that few girls are en-

couraged by counselors or by the science faculty to study advanced science. Also, under-representation of either girls or boys might be related to the way in which the activity is presented in written descriptions. An evaluation of these decriptions similar to the one suggested for course descriptions should be made. (See the *Access to Courses* section of this guide.) Sometimes an activity becomes a "girls' club" or a "boys' club" through reputation when its membership becomes sufficiently imbalanced that other members of the under-represented sex are reluctant to involve themselves. In these cases, as in cases where activities have previously been generally considered either female or male pursuits (such as drill team, cheerleaders, stage crew), the faculty member involved should attempt to go beyond simply evaluating/correcting formal descriptions and conduct an effort to identify potentially interested students who may have been discouraged from participation because of their sex.

Clearly, differences in the extracurricular interests of girls and boys is influenced by other factors outside the school. There is no obligation that each activity have approximately equal participation of girls and boys. The school's obligation is to remove all formal restrictions (unless exempted) and to make an effort to identify and correct informal barriers to equal participation such as those identified above.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Treatment of Students* section.

DATA COLLECTION: TREATMENT OF STUDENTS

TABLE 11 STUDENT AWARDS, PRIZES AND HONORS

INSTRUCTIONS: Enter the indicated information about all awards, prizes and honors which were given to students by the school, by some organization within the school or by an organization outside the school through the school's cooperation, during the *previous* school year. Do not include the award of scholarships for higher education, unless the scholarship accompanied some other special recognition of the student, e.g., being chosen Best Athlete or Homecoming Royalty. Complete one form for each school building and refer to the *Corrective Action Guide* for *Student Awards, Prizes and Honors* for assistance in evaluating this information.

NAME OF AWARD, PRIZE OR HONOR	SPONSOR	NATURE OF AWARD	SELECTION CRITERIA	SEX OF RECIPIENT

COMPLETED BY _____

(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: STUDENT AWARDS, PRIZES AND HONORS

REFER TO:		
	Title IX Regulation:	§86.31(a)
	Achieving Sex Equity:	Table 11
	District Materials:	Descriptions of selection criteria for student awards, prizes, honors

The Title IX Regulation prohibits a school from applying different eligibility criteria for provision of any benefit, providing different benefit or denying any person a benefit on the basis of sex. It further prohibits the school from providing significant assistance to any organization which discriminates against students on the basis of sex in providing any benefit.

This means that the selection criteria and procedure for all honors, awards and prizes must not discriminate on the basis of sex. The selection criteria cannot be differentiated for girls and boys, nor may sex itself be one of the qualifications for an award. It also means that equal achievements of females and males must be equally rewarded. Table 11 assembles the information necessary to evaluate whether student awards and honors are given in a nondiscriminatory manner.

If the selection criteria for any award are different for girls and boys, these must be replaced by objective criteria developed and applied without regard to sex. If sex is one of the criteria for any award or honor, this must be changed. Honor societies and letter clubs, for example, must be open to both girls and boys according to rules of eligibility which do not discriminate on the basis of sex. Awards may not be given to "outstanding boy" or "outstanding girl" but must be given to "outstanding students" on the basis of objective criteria.

Similarly, if outstanding male athletes are awarded letters, outstanding female athletes should also receive letters. The nature of awards given to girls and boys with identical achievements should be the same.

If corrective action is needed in this area, proceed to the *Compliance Records* page at the end of the *Treatment of Students* section.

DATA COLLECTION: TREATMENT OF STUDENTS

TABLE 12 DISCIPLINARY ACTIONS

INSTRUCTIONS: In the table below, enter the percentage of students in each cell who are girls and the percentage who are boys. For example, if ten students received a warning for tardiness during the recording period, and seven of these were female and three male, enter "70%" under girls and "30%" under boys in the first cell. If past records are available, enter data for the current term to date. However, if the term has just begun, enter data for the preceeding term. If past records are not available, begin tabulating this information on a copy of this form. Convert the actual numbers of girls and boys recorded in each cell to percentages by dividing each by the total number of students in that cell to complete the final building form. In any case, whether obtained from existing records or tabulated, enter data for a period of no less than one month. Complete one form for each school building and refer to the *Corrective Action Guide* for *Discipline* on the following page for assistance in evaluating this information.

INFRACTION	DISCIPLINARY ACTION TAKEN									
	WARNING		DETENTION		CORPORAL PUNISHMENT		SUSPENSION		EXPULSION	
	% GIRLS	% BOYS	% GIRLS	% BOYS	% GIRLS	% BOYS	% GIRLS	% BOYS	% GIRLS	% BOYS
TARDINESS										
TRUANCY										
SMOKING										
INSUBORDINATION										
OTHERS (SPECIFY)										

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION: DISCIPLINE

REFER TO: Title IX Regulation: §86.31
Achieving Sex Equity: Table 12
District Materials: School Policies Concerning Student Behavior, Rules of Appearance.

Title IX prohibits a school from subjecting students to different rules of behavior or different sanctions on the basis of sex. Examination of stated policies concerning student behavior will tell you whether different standards are formally applied to girls and boys. If this is the case, rules of student behavior must be rewritten, presenting one set of behavior standards to be applied to young people of both sexes.

Where the formal rules for girls and boys are the same, there may still be an informal policy concerning the application of these rules to students of different sexes. Some infractions, such as smoking, may be considered more serious if committed by a girl, for example, while boys are punished more severely for insubordination.

Table 12 provides the data to assess whether girls and boys are given the same treatment in regard to infractions of school rules. If there are patterns of different treatment for girls and boys for the same offense, these should be investigated further. Persons who have responsibility for student discipline should be informed about Title IX and the necessity for a uniform standard of behavior applied without regard to the sex of the individual.

A related issue is dress codes or rules of appearance. Schools may require that students' clothing and grooming conform to community standards as long as these standards, as defined by the school, are similar for both sexes. This does not mean that students must dress alike. However, rules of appearance should not have the effect of restricting members of one sex more than members of the other sex, nor of making it more expensive to clothe either girls or boys for school. Allowing boys to wear jeans and prohibiting jeans for girls, for example, would be discriminatory. Wherever possible, written rules of appearance are best stated in neutral terms which present expectations of students without references to sex.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Treatment of Students* section.

TABLE 13 FINANCIAL ASSISTANCE

INSTRUCTIONS: List all scholarships which were awarded to students, either by the school or by an outside organization or person through the assistance of the school, during the last academic year. For each scholarship awarded, enter the name, the sponsor, the amount of the award and the sex of the recipient of the award. In addition, for each scholarship listed, attach a copy of the criteria used in selecting the scholarship recipient. Total the amounts of awards to girls and the amounts of awards to boys and enter these totals at the bottom of the form. Complete one form for each building. Refer to the *Corrective Action Guide* for *Financial Assistance* for assistance in evaluating this information.

NAME OF AWARD	PERSON/ORGANIZATION MAKING AWARD	AMOUNT OF AWARD	SEX OF RECIPIENT

TOTAL VALUE OF AWARDS TO GIRLS _____

TOTAL VALUE OF AWARDS TO BOYS _____

COMPLETED BY:

(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools, Portland State University, Portland, Oregon.

CORRECTIVE ACTION: FINANCIAL ASSISTANCE

REFER TO: Title IX Regulation: §86.37, §86.31(b)(7)
Achieving Sex Equity: Table 13

The fundamental intent of the sections of the Regulation pertaining to financial assistance to students is to ensure that females and males with comparable qualifications are provided comparable funds for higher education and that funds are awarded in a nondiscriminatory manner.

Schools are prohibited both from discriminating on the basis of sex in direct awards of financial assistance and from assisting in discriminatory awards made by other organizations. See the Introduction to this section for more information about significant assistance to persons or organizations who provide benefits to students in a discriminatory manner.

The most important things to evaluate are the value of awards to girls and to boys and the selection criteria.

The amounts of awards to girls and boys should be examined both individually and in aggregate. Table 13 asks for the total dollar value of awards to girls and boys. There is not a requirement that awards to one sex equal in value awards to the other sex; however, disproportionate awards may be the result of discriminatory selection processes and warrant a closer look.

The more important question is whether girls and boys with comparable qualifications are receiving comparable assistance. Table 13 provides the data to answer this question. When comparing awards made to girls and boys, it is important to also compare selection criteria.

Generally, sex should not be a criterion for the award of financial assistance. However, there is a provision in Section 86.37(b) of the Regulation for the administration or the award of financial assistance restricted by legal instruments to members of one sex, provided that this does not have a discriminatory effect on overall financial assistance available to students. The Regulation outlines a procedure for the nondiscriminatory allocation of funds which has been referred to as the "pooling" concept. This is outlined below:

(1) Students are selected for assistance on the basis of objective criteria, without considering either student sex or the availability of sex-restricted funds.

(2) Students are then ranked according to these criteria.

(3) Available funds are then awarded to students, from both restricted and unrestricted sources, in order of their rank.

No student may be denied financial assistance to which she or he is otherwise qualified because of the unavailability of appropriate sex-restricted funds. If such a situation arises, the school should seek additional funds for that sex or funds which are unrestricted or negotiate with the donor of a sex-restricted scholarship for removal of sex as a qualification.

CORRECTIVE ACTION: FINANCIAL ASSISTANCE *(Continued)*

The Regulatory requirements for athletic scholarships are somewhat different from those for non-athletic assistance. Following the Regulation's permission of sex-separated athletic teams, the overall allocation of athletic scholarships may be based upon sex. (Such separate treatment is clearly prohibited for non-athletic scholarships.) The key concept in the awarding of athletic scholarships is reasonableness: "reasonable opportunities" for athletic scholarships for males and females must exist "in proportion to the number of students of each sex participating in interscholastic . . . athletics" (§86.37(c) of the Regulation). Districts should assess whether male and female athletes at comparable levels of competition are afforded approximately the same opportunities to obtain athletic scholarships.

Several approaches may be taken in the provision and administration of athletic scholarships:

> **a district or school may elect to make an overall proportionate allocation of athletic scholarships on the basis of sex,** awarding them to males and females in numbers relatively proportionate to the numbers of students of each sex participating in interscholastic athletics; or
>
> **a district or school may award such scholarships by applying general, sex-neutral standards to applicants of both sexes, ensuring that the criteria used do not inherently disadvantage members of either sex.** Such a process is permissible even if it results in patterns of awards which differ from the relative levels of athletic participation of both males and females. If athletic ability is included in the standards used, however, and range of ability in the sport for which a scholarship is awarded differs widely between the sexes, then separate norms must be developed for each sex.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Treatment of Students* section.

COMPLIANCE RECORDS

INSTRUCTIONS: For each area of this guide, enter the corrective action steps to be undertaken. Complete different forms for corrective action steps to be undertaken at the district level and corrective action steps to be undertaken in individual school buildings. Differentiate these forms by marking the appropriate box below. Identify the area to which this record applies, e.g., Athletics, in the space labeled "Compliance Area." As soon as corrective steps are identified, enter these in the first column. Make these as specific as possible. For example, rather than entering "equalize the equipment available for girls' and boys' basketball teams," identify specific actions to be taken, such as "purchase three Wilson basketballs for the girls' basketball team." Then enter the name of the person responsible for each action and the date the action is to be completed. Later, enter the date the action was in fact completed, the location of supporting documentation and any comments regarding this action which seem relevant. Such comments might include changes which were made in the planned corrective steps or problems which arose in completing the actions on schedule.

COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

COMPLIANCE RECORDS

INSTRUCTIONS: For each area of this guide, enter the corrective action steps to be undertaken. Complete different forms for corrective action steps to be undertaken at the district level and corrective action steps to be undertaken in individual school buildings. Differentiate these forms by marking the appropriate box below. Identify the area to which this record applies, e.g., Athletics, in the space labeled "Compliance Area." As soon as corrective steps are identified, enter these in the first column. Make these as specific as possible. For example, rather than entering "equalize the equipment available for girls' and boys' basketball teams," identify specific actions to be taken, such as "purchase three Wilson basketballs for the girls' basketball team." Then enter the name of the person responsible for each action and the date the action is to be completed. Later, enter the date the action was in fact completed, the location of supporting documentation and any comments regarding this action which seem relevant. Such comments might include changes which were made in the planned corrective steps or problems which arose in completing the actions on schedule.

COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools; Portland State University; Portland, Oregon.

IV

ATHLETICS

ATHLETICS

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ATHLETICS

The Title IX Regulation (§86.41(a)) provides generally that:

> No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

However, the following paragraph provides that:

> . . . a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletics opportunities of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part (Title IX Regulation), contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

Thus, although there exists a general prohibition against sex discrimination in athletics programs and the provision of athletics programs separately on the basis of sex, the Regulation identifies situations in which separate teams may be provided for females and males. Separate teams may be provided, but need not necessarily be provided, where the sport involved is a contact sport. Contact sports are identified in the Regulation and the position of the Office for Civil Rights has been that unless a sport has been identified by OCR as a contact sport, it should be considered a noncontact sport. Thus, schools may insist upon separate teams for girls and boys, or may provide teams for only girls or boys, in the six sports identified above.

Separate teams may be also provided, but need not necessarily be provided, where selection of team members for a noncontact sport is based upon competitive skill. This provision refers to situations in which students interested in participating on an athletic team must compete with one another to win a place on the team. This provision results from a concern that offering all sport teams on a coeducational basis involving try-outs for team membership would have the effect of actually reducing the athletic opportunities provided for girls, because girls traditionally received less encouragement and training for athletic achievement than boys.

There is an exception to the above provision, however. In the case where a noncontact sport team is provided for one sex and a team in the same sport is not provided for the other sex, and the overall athletic opportunities of the excluded sex have previously been limited, interested members of excluded sex must be allowed to try-out for the existing team. If one assumes that athletic opportunities have previously been more limited for girls than for boys, which has usually been the case in school districts, this means that a girl must be allowed to try-out for a boys' team in a noncontact sport in which the school does not offer a girls' team. If there is a girls' team in that sport, however, interested girls can, but need not, be restricted to the girls' team.

This provision has been interpreted to refer to overall athletic opportunity for girls and boys. Thus, boys need not be allowed to try-out for girls' team in a sport in which there is no boys' team offered unless athletic opportunities for boys have, overall, previously been limited. For example, a boy cannot use this provision of Title IX to be allowed to try out for a girls' volleyball team because opportunities for boys to play volleyball have previously been limited. The boy would need to demonstrate that athletic opportunities for boys have generally, across all sports, been more limited than the overall athletic opportunities provided for girls. Of course, the Title IX Regulation does not prohibit sex-integrated teams in any sport. It allows sex-separate teams in the above described situations. A school is free to offer any or all teams on a coeducational basis, provided that doing so meets the requirements for equal opportunity.

These requirements or criteria are presented in section §86.41(c):

> Equal Opportunity. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors:
>
> (i) whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
> (ii) the provision of equipment and supplies;
> (iii) scheduling of games and practice times;
> (iv) travel and per diem allowance;
> (v) opportunity to receive coaching and academic tutoring;
> (vi) assignment and compensation of coaches and tutors;
> (vii) provision of locker rooms, practice and competitive facilities;
> (viii) provision of medical and training facilities and services;
> (ix) provision of housing and dining facilities and services;
> (x) publicity.

The materials in this section of *Achieving Sex Equity* are designed to assist school personnel in determining whether athletic teams and activities offered in their schools meet these criteria for equal opportunity.

The first set of data collection tables and the accompanying corrective action guide addresses the issue of whether the athletic program effectively accommodates the interests and abilities of members of both sexes. They are designed to identify the extent to which the teams and activities currently provided meet the interests of students, as expressed in a student interest survey, and the abilities of students, as assessed through try-outs or the professional judgement of physical education and athletic staff.

The second set of data collection and analysis materials examines the provision of support services and resources to the teams and activities provided for girls and for boys, according to the factors cited above.

TABLE 14 SAMPLE STUDENT ATHLETICS INTEREST SURVEY

INSTRUCTIONS: Below is a suggested format for a survey of student interests in athletic activities. Such a survey would provide information valuable to planning an equitable athletic program for both girls and boys. In the first column, list those athletic activities currently provided, plus any others which the school feels it could reasonably offer to students next year, e.g., it will be possible to provide equipment, coaching, practice and competition facilities, etc. Some districts also leave several spaces open and ask students to indicate what additional sports activities they would be interested in. Survey all students who will be eligible to participate in athletic programs in the next school year. In most districts, this means students currently enrolled in grades five through eleven. After the survey forms have been collected, use Table 15, on the following page, to compile returned survey forms on a building level.

ATHLETICS INTEREST SURVEY

Dear Student:

Listed below are the athletic activities which the school now offers and the athletic activities which it could offer if enough students were interested. Please tell us what your interest is in each activity by checking the correct column.

Also, please complete the following information:

(1) Are you a girl or a boy? _____

(2) What grade will you be in *next* year? _____

(3) What school will you be in *next* year? _____

(4) What is today's date? _____

ATHLETIC ACTIVITY	I WOULD TRY OUT FOR THE SCHOOL TEAM	I WOULD PLAY IN INTRAMURALS	I WOULD GO TO THE GAMES, ACTIVITY, ETC.	I AM NOT INTERESTED

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools, Portland State University, Portland, Oregon.

DATA COLLECTION: ATHLETICS

TABLE 15 ASSESSMENT OF STUDENT INTERESTS

INSTRUCTIONS: This form is provided for the compilation of the Student Athletics Interest Survey (Table 14). After individual student surveys have been collected, sort these by the school the student will be attending *next* school year. Use this form to tabulate these survey forms, completing one form for each school building. List the athletic activities from the survey in the first column and enter the number of girls and boys by grade level according to their response to each athletic activity. Large enough spaces have been provided that this form could be used as a running tally as the responses are counted by using slash marks (i.e. 𝍸 II); then, total the students in each cell. Refer to the *Corrective Action Guide* for *Athletics Programs* for assistance in evaluating this information.

ATHLETIC ACTIVITIES (List Activities from Survey)	STUDENTS INTERESTED IN PLAYING COMPETITIVELY		STUDENTS INTERESTED IN PLAYING INTRAMURALS		STUDENTS INTERESTED IN ATTENDING GAMES		GRADE LEVEL
	BOYS	GIRLS	BOYS	GIRLS	BOYS	GIRLS	

TABLE 15 (Continued) ASSESSMENT OF STUDENT INTERESTS

ATHLETIC ACTIVITIES (List Activities from Survey)	STUDENTS INTERESTED IN PLAYING COMPETITIVELY		STUDENTS INTERESTED IN PLAYING INTRAMURALS		STUDENTS INTERESTED IN ATTENDING GAMES		GRADE LEVEL
	BOYS	GIRLS	BOYS	GIRLS	BOYS	GIRLS	

COMPLETED BY _____

(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools; Portland State University; Portland, Oregon.

DATA COLLECTION: ATHLETICS

TABLE 16 CURRENT ATHLETIC ACTIVITIES

INSTRUCTIONS: List all organized athletic teams or activities which have been or will be offered to students in the current academic year. Record each team or activity in the appropriate column, depending upon whether its membership is comprised of boys only, girls only or of both girls and boys (coeducational). Identify each team or activity by the name of the sport and the level of competition, i.e. intramural, junior varsity, varsity. Enter teams in the same sport which compete at different levels separately. For example, if the school offers boys' basketball at the intramural, junior varsity and varsity levels, these teams would be represented by three entries in the Boys' Teams/Activities column. Complete one form for each school building in which athletic programs are offered. Refer to the *Corrective Action Guide* for *Athletic Programs* on the following page for assistance in evaluating this information.

BOYS' TEAMS/ACTIVITIES		GIRLS' TEAMS/ACTIVITIES		COEDUCATIONAL TEAMS/ACTIVITIES	
SPORT	LEVEL OF COMPETITION	SPORT	LEVEL OF COMPETITION	SPORT	LEVEL OF COMPETITION

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: ATHLETIC PROGRAMS

REFER TO: Title IX Regulation: §86.41
Achieving Sex Equity: Tables 14-16

In determining whether overall equal opportunity for participation in athletic programs is provided for girls and boys in a school, the Office for Civil Rights will consider, among other factors, "whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes" (§86.41(c)). A knowledge of the interests and abilities of both girls and boys in athletic teams and activities is necessary to the development of an athletic program which provides equal opportunity for participation for both boys and girls.

The Regulation does not provide specific guidelines for assessing either the interests or abilities of girls and boys. The Office for Civil Rights has issued a memorandum, however, which recommends that schools take steps to determine the interests of girls and boys in athletic programs. For sports in which team members are selected on the basis of competition, the memorandum recommends that the school assess the relative ability levels of each sex in order to determine whether to provide single-sex or coeducational teams.*

The Office for Civil Rights does not mandate a specific method of determining student interest or ability in athletics. Ability can reasonably be determined either through try-outs or by relying on the knowledge possessed by the physical education and athletic staff of the school.

Interest may be more difficult to assess through these means. What may appear to be disinterest on the part of girls may be a reflection of the relative lack of athletic opportunities in the past. Because athletic opportunities provided for boys and girls have often been disproportionate in the past, relying on a try-out system to assess interest is unreliable, since such a system will continue to tend to replicate previous patterns.

An alternative chosen by many schools is to survey students to assess the interests of girls and boys in participating in the athletic teams and activities which the school offers or could offer.** The sample student survey presented in Table 14 is provided as a guide for school districts in developing their own survey instrument. Such a survey would provide information regarding the interests of both girls and boys in participating in various sports at various levels of competition.

Such information would be valuable in planning an athletic program which does in fact "accommodate the interests and abilities of both sexes." The survey should include those sports that the school could realistically offer to students. Title IX does not require that all of the interests of either girls or boys be accommodated, nor does it require that the district offer identical athletic programs for girls and boys. Rather, school districts are required to meet the athletic interests and abilities of girls and boys to the same degree.

---

* Memorandum to Chief State Schools Officers, Superintendents of Local Education Agencies and College and University Presidents, re: Elimination of Sex Discrimination in Athletic Programs (September, 1975), available from the Office for Civil Rights.

**School districts in Washington state are required to conduct such a survey under State law (revised code of Washington §28A.85.

CORRECTIVE ACTION GUIDE: ATHLETIC PROGRAMS *(Continued)*

The information concerning student interest by sex in athletic programs, collected in Table 14 and compiled in Table 15, should be evaluated together with the listings of current athletic offerings in Table 16 to determine whether the athletic programs currently offered by the school meet the interests and abilities of girls and boys to the same extent. There will be some girls and some boys who express interest in an activity which the school is unable to provide, perhaps because too few students expressed an interest to justify offering the activity. However, if the interest of the boys closely matches the capacity of the programs available to boys, while the interest expressed by girls greatly exceeds the capacity of the programs currently available for girls, the athletic program should be changed so that the opportunity for interested girls is similar to the opportunity afforded interested boys in the school.

In planning athletic programs, it is important to remember that student interest and ability in athletic teams and activities are not static. This is particularly true of girls, because athletic opportunities have often been more limited for girls in the past and because girls have often felt discouraged from or unrewarded for athletic achievement. The increased athletic opportunities within schools and communities and the prominence of women athletes will probably result in greater interest on the part of the girls. The abilities of girls will also improve, with changes in physical education instruction resulting from Title IX and from the increasing interest of girls and their families in athletic achievement. Thus, it would be valuable to assess student interest and abilities not just once, in the process of institutional self-evaluation, but periodically in an effort to monitor the continued provision of equal opportunity for both girls and boys.

It should be noted that Title IX does not require the girl's athletic program to become a carbon copy of the boy's athletic program. It is, for example, possible for a school to be in compliance with the Title IX athletic requirements while offering or emphasizing different sports for girls and boys. Rather, the objective is to provide opportunities for athletic participation and achievement which equitably meet the interests and abilities of both girls and boys.

If corrective action is needed in this area, proceed to the *Compliance Records* page at the end of the *Athletics* section.

DATA COLLECTION: ATHLETICS

TABLE 17 PROVISIONS FOR ATHLETIC TEAMS

INSTRUCTIONS: Complete one of these forms for each school for both girls' and boys' teams in the same or comparable sports, e.g., basketball, track, tennis, baseball/softball. Also, complete one of these forms for each of the other teams offered for girls or for boys. Refer to the *Corrective Action Guide* for *Provisions for Athletic Teams* for assistance in evaluating this information.

SPORT _____

GIRLS' TEAM ☐ BOYS' TEAM ☐ COED TEAM ☐

	GIRLS	BOYS
LEVEL OF COMPETITION		
NUMBER OF PARTICIPANTS		
NUMBER OF GAMES PER SEASON		
DAY OF WEEK AND TIME OF GAMES		
DAY OF WEEK AND TIME OF PRACTICE		
HOURS OF PRACTICE TIME/GAME (RATIO)		
MODE OF TRANSPORTATION TO GAMES		
NUMBER OF COACHES		
RATIO COACHES/PARTICIPANTS		
TOTAL EXPENDITURE OTHER THAN SALARIES		
EXPENDITURE PER PARTICIPANT		

ARE THE QUALITY & QUANTITY OF EQUIPMENT FOR BOYS AND GIRLS APPROXIMATELY EQUAL? YES _____ NO _____

ARE THE QUALITY & QUANTITY OF UNIFORMS FOR BOYS AND GIRLS APPROXIMATELY EQUAL? YES _____ NO _____

COMPLETED BY:

_____

(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools; Portland State University; Portland, Oregon.

CORRECTIVE ACTION GUIDE: PROVISIONS FOR ATHLETIC TEAMS

REFER TO: Title IX Regulation: §86.41(c)
Achieving Sex Equity: Table 17

The Title IX Regulation identifies several factors which the Office for Civil Rights will consider in determining whether a school provides equal opportunity in athletics for girls and boys. These include the following provisions for sports teams:

- the provision of equipment and supplies
- scheduling of games and practice times
- travel and per diem allowances
- opportunity to receive coaching and academic tutoring
- assignment and compensation of coaches and tutors
- provision of locker rooms, practice and competitive facilities
- provision of medical and training facilities and services
- publicity

An Office for Civil Rights Memorandum provides clarification of the overall objective of these provisions for equal opportunity in Athletics:*

> The point of the regulation is not to be so inflexible as to require identical treatment in each of the matters listed under Section 86.41(c). During the process of self-evaluation, institutions should examine **all** of the athletic opportunities for men and women and make a determination as to whether each has an equal opportunity to compete in athletics in a meaningful way. The equal opportunity emphasis in the regulation addresses the totality of the athletic program of the institution rather than each sport offered.
>
> Educational institutions are not required to duplicate their men's program for women. The thrust of the effort should be on the contribution of each of the categories to the overall goal of equal opportunity in athletics rather than on the details related to each of the categories.
>
> While the **impact** of expenditures for sex identifiable sports programs should be carefully considered in determining whether equal opportunity in athletics exists for both sexes, equal aggregate expenditures for male and female teams are not required. Rather, the pattern of expenditures should not result in a disparate effect on opportunity. Recipients must not discriminate on the basis of sex in the provision of necessary equipment, supplies, facilities, and publicity for sports programs. The fact that differences in expenditures may occur because of varying costs attributable to differences in equipment requirements and levels of spectator

*Memorandum to Chief State Schools Officers, Superintendents of Local Education Agencies and College and University Presidents, re: Elimination of Sex Discrimination in Athletic Programs (September, 1975), available from the Office for Civil Rights.

interest does not obviate in any way the responsibility of educational institutions to provide equal opportunity.

Overall, teams and activities which are provided for girls or boys or which are provided for coeducational participation should receive comparable support. Common sense is the best guideline in making this determination. Common examples of discrimination in the provisions for athletic teams in school districts are:

- the provision of district transportation for the teams of one sex while teams of the other sex must provide their own transportation.
- the provision of a proportionately smaller quantity of equipment for teams of one sex.
- the provision of newer or better quality equipment for teams of one sex.
- a larger ratio of athletes to coaches for teams of one sex.
- lesser compensation for coaches for teams of one sex which is based upon the sex of the team members.
- the assignment of less-qualified coaches to teams of one sex.
- scheduling competition events for teams of one sex on days and at times which discourage full attendance.
- consistently scheduling practice times for teams of one sex at less favorable hours.
- locker room facilities which provide proportionately less space, fewer facilities and less equipment for athletes of one sex.
- failure to provide the same publicity efforts, both within the school and in the community, to support teams of both sexes.

Scheduling problems and limited district resources may mean that the district cannot equally provide for each team or activity. Such disadvantages, however, should not affect the teams of one sex more than the teams of the other sex. Where the teams of one sex are more disadvantaged than teams of the other sex, sex discrimination is indicated.

Where such discrimination is identified, correction action should be taken. Many of the examples above are relatively easily solved through rescheduling or through the initiation of an active publicity effort. Others which involve financial commitments may be less easily solved.

Recognition of these difficulties led the Office for Civil Rights to allow a two-year adjustment period for secondary athletics. Whereas other areas of the school covered by Title IX had to be in full compliance by July, 1976, schools were given an additional two years to identify areas of discrimination in athletics and to formulate and implement corrective actions which would provide for equal athletic opportunity. This adjustment period ended in July, 1978. Thus, discriminatory situations which are identified should be corrected as expeditiously as possible.

CORRECTIVE ACTION GUIDE: PROVISIONS FOR ATHLETIC TEAMS *(Continued)*

The overall equal athletic opportunity provisions of Title IX apply to **all** sports, including contact and competitive sports which the school offers on a single sex basis. Also, these equal opportunity requirements are independent of the source of funding for a particular team or athletic program. Hence, the fact that a girls' program is primarily supported by the women's physical education department, while the boys' program is primarily supported by ticket sales, student fees or an athletic booster club does not alter the institution's overall obligation to provide equal opportunity.

If corrective action is needed in this area, proceed to the *Compliance Records* page at the end of the *Athletics* section.

COMPLIANCE RECORDS

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COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

COMPLIANCE RECORDS

INSTRUCTIONS: For each area of this guide, enter the corrective action steps to be undertaken. Complete different forms for corrective action steps to be undertaken at the district level and corrective action steps to be undertaken in individual school buildings. Differentiate these forms by marking the appropriate box below. Identify the area to which this record applies, e.g., Athletics, in the space labeled "Compliance Area." As soon as corrective steps are identified, enter these in the first column. Make these as specific as possible. For example, rather than entering "equalize the equipment available for girls' and boys' basketball teams," identify specific actions to be taken, such as "purchase three Wilson basketballs for the girls' basketball team." Then enter the name of the person responsible for each action and the date the action is to be completed. Later, enter the date the action was in fact completed, the location of supporting documentation and any comments regarding this action which seem relevant. Such comments might include changes which were made in the planned corrective steps or problems which arose in completing the actions on schedule.

COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

V

EMPLOYMENT

ACHIEVING SEX EQUITY: Assessing and Implementing
Compliance with Title IX in Public Schools
Portland State University
Portland, Oregon

EMPLOYMENT

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EMPLOYMENT

In prohibiting discrimination on the basis of sex in the employment of any person in a covered education program or activity, §86.51(a) of the Regulation implementing Title IX generally provides that:

(1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full time or part time, under any education program or activity operated by a recipient which receives or benefits from Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by this Subpart, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of this part.

School districts should pay particular note to the fact that they are responsible for any discriminatory policies or practices even if the district's actions are in accord with state law or the terms of a collective bargaining agreement (see §86.58). Thus, if enforcement proceedings are commenced against the district for a Title IX violation, the district cannot defend itself by proving that it was only following state law or the terms of a negotiated contract.

The Issue in Education*

The primary intent of the employment provisions of the Title IX Regulation is to ensure that true equality of opportunity exists in all employment policies, practices and procedures of an education agency or institution. Equal treatment may be denied either to male or female applicants or employees, and such denial may occur in nearly every aspect of personnel management. The employment provisions of the Title IX Regulation are based, in large measure, on experience with other federal nondiscrimination laws covering employment and the precedents established through related litigation under Title VII, the Equal Pay Act, and other laws.

To understand issues of equal employment opportunity within the field of education, care must be taken to distinguish between the sex-typing of professional roles and the underutilization of qualified education personnel. Education has been characterized as a "woman's profession" because sixty-seven percent of the instructional personnel in local education agencies are female. The inaccuracy of this label is apparent when this figure is compared with figures regarding the representation of women within administrative and leadership positions in education.

*Excerpted by permission from *Complying with Title IX: Implementing Self-Evaluation*, McCune and Matthews, USOE.

This employment pattern may be partially explained by societal and professional sex stereotyping of the roles of males and females and the individual choices made on the basis of such stereotypes. We can expect that this general pattern may be modified in the course of future years as a result of a general societal movement toward the reduction of sex-role stereotyping. The sex-typing which results from individual applicant or employee choices is, of course, not prohibited by the Regulation.

This employment pattern also results from discrimination in the employment policies and practices of education institutions. Such discrimination occurs when sex is used as a criterion for the differential handling of applicants or employees. One indicator of possible discriminatory policies or practices is the underutilization of either males or females in a particular job category or position in an education agency. Underutilization occurs when employees of a particular group (sex, racial-ethnic group) occupy a smaller percentage of job positions than their proportionate representation in the pool of qualified individuals.

National figures suggest that women are underutilized in local education agency employment, and that educational employment practices, policies and procedures should be reviewed for possible discriminatory effects.

Application of Title IX to Employment

Section 86.51(b) of the Regulation specifies that the Title IX provisions on employment apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for an award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications and structure, including position descriptions, lines or progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training.

(9) Employer-sponsored activities, including social or recreational programs; and,

(10) Any other term, condition, or privilege of employment.

EMPLOYMENT *(Continued)*

The application of Title IX to employment practices has been questioned by some who claim that the law was intended to protect only students, not those employed in educational programs. According to these critics, Subpart E of the Regulation which covers employment practices is invalid. In order to understand this contention, one must recall the fact that Title IX is patterned closely after Title VI of the 1964 Civil Rights Act which prohibits discrimination on the basis of race, national origin, and color in federally assisted programs and activities.

Title VI was not intended to apply to employment practices generally. Rather, another section of the 1964 Civil Rights Act, Title VII, prohibited discrimination in employment. Nonetheless, there are two types of cases where Title VI applies to employment practices: (1) where a primary objective of federal assistance is to provide employment, and (2) where discrimination in employment causes discrimination to beneficiaries. School children are among the beneficiaries of federal aid to education and, thus, a federal court of appeals held that "faculty integration is essential to student desegregation. To the extent that teacher discrimination jeopardizes the successful desegregation, it is unlawful wholly aside from its effect upon individual teachers." *(United States v. Jefferson County Board of Education,* 372 F.2d 836 (5th Cir. 1966), *decree corrected* 380 F. 2d 385, *cert. denied* 389 U.S. 840 (1967).) Since *Jefferson County,* Title VI has been viewed as covering employment discrimination wherever that discrimination results in discriminatory treatment of students. The Title VI coverage of employment practices is based on the students' right to equal opportunity, not the employees' right to be free from discriminatory treatment.

Unlike Title VI, Title IX does not contain a provision generally exempting employment practices. HEW, in developing the Regulation implementing Title IX, took this difference to mean that Congress intended for employment practices of recipients of federal education assistance to come within the scope of Title IX.

Several courts have considered charges of employment discrimination brought under Title IX. In *Piascik v. Cleveland Museum of Art,* 426 F.Supp. 779 (N.D. Ohio 1976), a female applicant for a position as a security guard alleged her application was denied solely on the basis of her sex. The court found that the museum had not treated her in a discriminatory manner, but acknowledged the court's jurisdiction to hear an employment bias charge under Title IX. Recognizing that coverage of employment practices under Title IX would duplicate in many instances the employment discrimination ban of Title VII, the court nevertheless concluded that such coverage was intended by Congress. In a second unreported case, *McCarthy v. Burkholder* (Kansas District Court, August 26, 1977), a federal judge tentatively decided that Title IX did cover employment discrimination.

Different courts have reached the opposite result. See: *Romeo Community Schools v. United States Department of Health, Education and Welfare;* 438 F.Supp. 1021 (1977), *Brunswick School Bd. v. Califano,* 449 F.Supp. 886 (1978); *Seattle University v. HEW,* No. C77-6315, Jan. 20, 1978. The Romeo School District challenged the authority of HEW to issue regulations covering employment, specifically the regulation relating to treatment of pregnant employees. The court reasoned that the language of Title IX ". . . addresses itself only to sex discrimination against the participants in and beneficiaries of federally assisted education programs. (Title IX) must therefore be read to protect from sex discrimination only those persons for whom the federally assisted education programs are established, and this can only mean the school children in those programs."

The *Romeo* court was also persuaded by the fact that Congress provided for the regulation of employment discrimination in other provisions of Title IX, those provisions operating as amendments to Title VII and other equal employment opportunity laws. The *Romeo* court declared the challenged HEW regulation concerning treatment of pregnant employees void and unenforceable. Other courts reaching the same conclusion have relied generally on the same rationale as the court in *Romeo*.

The decisions in *Romeo* and *Brunswick* are binding only in the federal courts in the districts in which the courts sit, and HEW is continuing to enforce the regulation elsewhere. In Washington, there is an unreported case of *Seattle University vs. United States Department of Health, Education and Welfare*, which reaches the same result as *Romeo*, employing similar reasoning. However, the Region IX HEW office has interpreted this case to apply only to universities, leaving the Title IX employment regulations still in effect for school districts.

Romeo does raise the question of whether Title IX applies to employment practices. Without attempting to answer that question definitively, it is important to note that Title IX would logically apply to those categories of employment practices covered by Title VI, even if it is not intended to cover all employment practices of recipients. At a minimum, then, Title IX will probably be viewed by the courts as covering employment discrimination wherever that discrimination results in discriminatory treatment of students.

Perhaps the most practical question for school administrators is what difference would it make if Subpart E (Employment) of the Title IX Regulations were invalid? "Very little" is the simplified response. Title VII of the 1964 Civil Rights Act covers employment practices of school districts and bans sex discrimination. The Title VII regulations are very similar to those in Subpart E of the Title IX Regulation.* The major difference would be that employees could not file complaints on their own behalf with the HEW Office for Civil Rights, but would only have the choice of complaining to the EEOC (Equal Employment Opportunity Commission) which enforces Title VII. Legal remedies under state civil rights laws would also be available to employees. Thus, the obligation of school districts to provide equal employment opportunity to persons without regard to sex will not be altered regardless of court decisions concerning Title IX's applicability to employment practices.

On August 25, 1978, the Equal Employment Opportunity Commission (EEOC), the Civil Service Commission, the Department of Labor, and the Department of Justice adopted "Uniform Guidelines on Employee Selection Procedures" (*Federal Register*, Vol. 43, No. 166, pp. 38290-38315, August 25, 1978). These agencies enforce the major federal equal employment opportunity laws other than Title VI and Title IX. The guidelines incorporate a uniform set of principles designed to assist employers to comply with federal laws prohibiting race, sex, national origin or religious discrimination in employment. The Uniform Guidelines were issued too late to permit their full integration into these materials. However, an attempt has been made to highlight significant new provisions in footnotes. Please pay particular attention to these additions. School districts should be aware of the Uniform Guidelines as they will be applied by the EEOC in its enforcement of Title VII of the 1964 Civil Rights Act.

*If the courts determined that Title IX does not cover employment, there would be significant differences for school districts in terms of the treatment of pregnant employees. See Correction Action Guide: Marital and Parental Status for a fuller discussion of this point.

DATA COLLECTION: EMPLOYMENT

TABLE 18 WORK FORCE PROFILE

INSTRUCTIONS: This is a reproduction of Part II of the Equal Employment Opportunity Commission's Elementary-Secondary Staff Information (EEO-5) form. This compliance reporting system is a joint effort of the EEOC (enforcing Title VII of the Civil Rights Act of 1964), the Office for Civil Rights (enforcing Title VI of the same act) and the National Center for Educational Statistics. This form is required of larger districts annually and required of selected smaller districts each year on a rotating sample basis. Every public elementary and secondary school district with fifteen or more employees, and every individual school within any such district, is required to maintain all records necessary for the completion of this form, whether or not that district is actually required to file an EEO-5 form in any particular year. This form is designed to provide comprehensive information about the employment of women and minorities in the district. After completing this table, refer to the *Corrective Action Guide* for *Hiring* for assistance in evaluating this information.

ACTIVITY ASSIGNMENT CLASSIFICATION	OVERALL TOTALS (SUM OF COL. B THRU K)	STAFF TOTALS									
		MALE					FEMALE				
		WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE
	A	B	C	D	E	F	G	H	I	J	K
A. FULL TIME STAFF											
1. Officials, Administrators, Managers											
2. Principals											
3. Assistant Principals, Teaching											

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TABLE 18 (Continued) WORK FORCE PROFILE

ACTIVITY ASSIGNMENT CLASSIFICATION	OVERALL TOTALS (SUM OF COL. B THRU K)	STAFF TOTALS									
		MALE					FEMALE				
		WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE
	A	B	C	D	E	F	G	H	I	J	K
A. FULL TIME STAFF											
4. Assistant Principals, Non-teaching											
5. Elementary Classroom Teachers											
6. Secondary Classroom Teachers											
7. Other Classroom Teachers											
8. Guidance											
9. Psychological											

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TABLE 18 (Continued) WORK FORCE PROFILE

ACTIVITY ASSIGNMENT CLASSIFICATION	OVERALL TOTALS (SUM OF COL. B THRU K)	STAFF TOTALS									
		MALE					FEMALE				
		WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE
	A	B	C	D	E	F	G	H	I	J	K
A. FULL TIME STAFF											
10. Librarians/ Audio-Visual Staff											
11. Consultants & Supervisors of Instruction											
12. Other Professional Staff											
13. Teacher Aides											
14. Technicians											
15. Clerical/ Secretarial Staff											
16. Service Workers											

TABLE 18 (Continued) WORK FORCE PROFILE

ACTIVITY ASSIGNMENT CLASSIFICATION	OVERALL TOTALS (SUM OF COL. B THRU K)	STAFF TOTALS — MALE					FEMALE				
		WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE
	A	B	C	D	E	F	G	H	I	J	K
A. FULL TIME STAFF											
17. Skilled Crafts											
18. Laborers, Unskilled											
19. TOTAL (1-18)											
B. PART TIME STAFF											
20. Professional Instructional											
21. All Other											
22. TOTAL (20-21)											

COMPLETED BY _____
(Name) (Title) (Location) (Date)

TABLE 19 HIRING: PRE-EMPLOYMENT INQUIRIES

INSTRUCTIONS: Answer the following questions after reviewing all employment application forms used by the district in its employment process. If the answer to any question is yes, include the particular application form in your self-evaluation documentation, and refer to the *Corrective Action Guide* for *Hiring* for assistance in evaluating this information.

	YES	NO
1. Do the district's employment application forms ask for the marital status of the applicant (single, married, divorced, widowed)?	____	____
2. Do the district's application forms ask for the applicant's spouse's name or occupation?	____	____
3. Do the district's application forms ask whether an applicant is "Miss" or "Mrs."?	____	____
4. Do the district's application forms ask applicants for a maiden or former name in any manner other than the following: "If information necessary to process this application is located under a different name, please include such name(s) in the space provided."?	____	____
5. Do the district's application forms ask such questions as the names and ages of the applicant's children which would tend to reveal the applicant's present of past marital status?	____	____

COMPLETED BY:

(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: HIRING

REFER TO: Title IX Regulation: §86.53, §86.60
Achieving Sex Equity: Tables 18 and 19

The Title IX Regulation prohibits discrimination in hiring (see §86.51 and §86.53). The nondiscrimination mandate applies generally to the process of application for employment and, therefore, covers recruitment, advertising and pre-employment inquiries as well (see §86.53, 86.59, 86.60).

Table 18 provides a work force profile; that is, a picture of the school districts' employees classified by race and sex within various job categories. Table 18 is a reproduction of the federal EEO-5 form which is selectively required to be filed by school districts with the Office for Civil Rights (OCR), HEW. All school districts with 15 or more employees must keep the information contained on Table 18 on file for OCR. The school district should have the work force profile by buildings as well as for the whole school district.

The importance of the work force profile relates to the central role played by statistical evidence in proving the existence or nonexistence of a pattern of discrimination in hiring. In a May, 1978, Decision Announcement No. 1, (*Federal Register*, Vol. 43, No. 84, p. 18631, May 1, 1978). Thus, if the work force profile suggests that either sex or a racial/ethnic minority group is underutilized* in one or more job categories, the school district should inquire further for an explanation. Careful attention should be paid to the remaining self-evaluation tools contained in this guide, as they may assist the district to determine why the disparity exists. If there is no adequate explanation, OCR will presume that discrimination caused the statistical disparity.

The approach adopted by the Office for Civil Rights to statistical evidence of imbalance is similar to the approach taken by other federal civil rights compliance agencies in the "Uniform Guidelines on Employee Selection Procedures." (*Federal Register*, Vol. 43, No. 166, pp. 38290-38315, August 25, 1978. See Introduction page for an explanation of the Uniform Guidelines.) These agencies have determined that they should focus their attention on employers whose employment record reveals underutilizattion of women and minorities. "The fundamental principle underlying the Guidelines is that employer policies or practices which have an adverse impact on employment opportunities of any race, sex or ethnic group are illegal under Title VII . . . unless justified by business necessity . . . Once an employer has established that there is adverse impact, . . . the employer can modify or eliminate the procedure which produced the adverse impact . . . If the employer does not do that, then it must justify the use of the procedure on grounds of 'business necessity'." (*Federal Register*, pp. 38290-1, August 25, 1978.)

Adverse impact is deemed to exist when the "four-fifths rule" or "80% rule" is violated. The four-fifths rule of thumb is applied to hiring decisions as follows: "A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by the federal enforcement agencies as evidence of adverse impact . . . " (*Federal Register*, Section 4.D., p. 38297).

*Underutilized means that the percentage of men, women or minority group members employed by the school district in a particular job category differs significantly from the percentage of persons from that group who might reasonably be expected to be employed in that category. Thus, if the percentage of women with secondary credentials in the state is significantly higher than the percentage of women teaching in high school(s), women are underutilized as secondary teachers.

In the text above, it is suggested that school districts keep careful records of new hires by race, sex and job category. In order to apply the four-fifths rule to selection procedures, it is necessary to keep more extensive records. The Uniform Guidelines specify the minimum record-keeping requirements for school districts with less than 100 employees as follows:

(a) The number of persons hired, promoted, and terminated for each job by sex and where appropriate by race and national origin;

(b) The number of applicants for hire and promotion by sex and where appropriate by race and national origin; and

(c) The selection procedures utilized (either standardized or not standardized).

(*Federal Register*, p. 38303, August 25, 1978.) See Section 15 for details of record-keeping requirements for school districts with more than 100 employees (see Table 23 herein for device for recording applicant-flow).

Moreover, in rebutting a complaint alleging discrimination, a school district may use these statistics to help show that discrimination was not present. Districts are advised to monitor their hiring process, keeping yearly records of new hires by race, sex and job category. This can be particularly important if a district determines as a result of its self-evaluation that there is no adequate explanation for statistical evidence of under-utilization of males or females in certain job categories other than the existence of past discrimination. Under these circumstances, the school district needs to take corrective action to ensure that such discrimination does not recur. Thus, the school district will need to monitor its hiring closely in the future, and the district will want to be able to demonstrate that any continuing statistical disparity is **not** the result of its hiring since the introduction of a corrective action program.

As was stated above, the nondiscrimination mandate of the Title IX Regulation applies to the entire process of employee selection. Recruitment of employees is treated in the next section of this guide. Table 25 concerns the pre-employment inquiries prohibited by the Title IX Regulation. The Regulation permits pre-employment inquiries as to the sex of an applicant for employment if such inquiry is made equally of applicants of both sexes and if the information is not used to discriminate on the basis of sex (see §86.60). However, the Regulation prohibits any inquiry as to the marital status of the applicant. A positive response to any of the questions one through four on Table 19 will be deemed discriminatory. A positive answer to question five would most probably be deemed an indirect inquiry as to marital status and, thus, discriminatory. OCR reaffirmed this interpretation of the Title IX Regulation in "Policy Interpretation No. 1" issued in May, 1978 (*Federal Register*, Vol. 43, No. 84, p. 18630, May 1, 1978). In that policy announcement, OCR indicated that a narrowly construed question concerning former name would be permitted where the school district needed that name to process the candidate's application. The wording approved by OCR is: "If information necessary to process this application is located under a different name, please include such name(s) in the space provided." This question must, of course, be asked equally of applicants of both sexes.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Employment* section.

TABLE 20 RECRUITMENT WITHIN THE DISTRICT

INSTRUCTIONS: Record the procedures used to announce position openings to current employees of the district. In the first space, describe, in column one, the procedure which is most often used. List all the ways in which district personnel are informed of these vacancies, e.g., through faculty bulletins or newletters, announcements on bulletin boards in each school, announcements posted at the central office, direct mailing to persons with certain qualifications or who have previously applied for similar positions, verbal communications, etc. In column two, explain the situations in which this procedure is used, e.g., for administrative or teaching positions, for vacancies in the next school year, for temporary or sudden vacancies, etc. Since different procedures might be used in different situations, additional spaces are provided for alternative procedures for informing employees of vacancies. Describe these procedures in the same manner. Refer to the *Corrective Action Guide* for *Recruitment* for assistance in evaluating this information.

	WAYS OF INFORMING EMPLOYEES	SITUATION(S) WHICH APPLY
PROCEDURE ONE		
PROCEDURE TWO		

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TABLE 20 (Continued) RECRUITMENT WITHIN THE DISTRICT

	WAYS OF INFORMING EMPLOYEES	SITUATION(S) WHICH APPLY
PROCEDURE THREE		
PROCEDURE FOUR		

COMPLETED BY _____
(Name) (Title) (Location) (Date)

TABLE 21 RECRUITMENT OUTSIDE THE DISTRICT

INSTRUCTIONS: Record the procedures used to announce the position openings to *persons or institutions outside the district*. In the first space, describe, in column one, the procedure which is most often used. List all the ways in which prospective applicants are informed of these vacancies, e.g., through mailings to teachers' colleges, placement services, announcements in publications, direct mailings to persons who have previously applied or who are known to be qualified and interested, verbal communications, recruitment visits to teacher preparation institutions, etc. In column two, explain the situations to which this procedure applies, e.g., for administrative or teaching positions, vacancies for the next school year, temporary or sudden vacancies, etc. Since different procedures might be used in different situations, e.g., one procedure may be used for permanent positions and another for temporary positions, additional spaces are provided for alternate procedures for outside recruitment. Describe these procedures in the same manner. Refer to the *Corrective Action Guide* for *Recruitment* on the following page for assistance in evaluating this information.

	WAYS OF ANNOUNCING VACANCIES	SITUATION(S) WHICH APPLY
PROCEDURE ONE		
PROCEDURE TWO		

DATA COLLECTION: EMPLOYMENT

TABLE 21 (Continued) RECRUITMENT OUTSIDE THE DISTRICT

	WAYS OF ANNOUNCING VACANCIES	SITUATION(S) WHICH APPLY
PROCEDURE THREE		
PROCEDURE FOUR		

COMPLETED BY _____
(Name) (Title) (Location) (Date)

TABLE 22 TYPES OF RECRUITMENT USED

INSTRUCTIONS: Indicate below the kinds of recruitment undertaken for various hiring situations listed in the first column. If no standard procedure is emphasized for a particular kind of vacancy, indicate this in the second column, "No Standard Procedure." If there are standardized procedures, check, in the third column, the types of recruitment which are used for each kind of vacancy and, in the fourth cloumn, indicate the reason for the procedures used. For further information, proceed to the *Corrective Action Guide* for *Recruitment* for assistance in evaluating this information.

SITUATION	NO STANDARD PROCEDURE	RECRUITMENT USED			REASON FOR PROCEDURE		
		INSIDE RECRUITMENT ONLY	INSIDE RECRUITMENT FIRST	OUTSIDE RECRUITMENT	BOARD DECISION	ADMINISTRATIVE DECISION	NEGOTIATED AGREEMENT
TEACHING VACANCIES							
1. Permanent full-time position for next school year							
2. Permanent full-time position, resulting from unexpected vacancy							
3. Temporary full-time position for next school year							
4. Temporary full-time position, resulting from unexpected vacancy							
5. Temporary part-time position for next school year							
6. Temporary part-time position resulting from an unexpected vacancy							
7. Permanent part-time position for next school year							

TABLE 22 (Continued) TYPES OF RECRUITMENT USED

SITUATION	NO STANDARD PROCEDURE	RECRUITMENT USED			REASON FOR PROCEDURE		
		INSIDE RECRUITMENT ONLY	INSIDE RECRUITMENT FIRST	OUTSIDE RECRUITMENT	BOARD DECISION	ADMINISTRATIVE DECISION	NEGOTIATED AGREEMENT
8. Permanent part-time position resulting from an unexpected vacancy							
ADMINISTRATIVE VACANCIES 1. Permanent full-time position for next school year							
2. Permanent full-time position, resulting from unexpected vacancy							
3. Temporary full-time position for next school year							
4. Temporary full-time position, resulting from unexpected vacancy							
5. Temporary part-time position for next school year							
6. Temporary part-time position resulting from an unexpected vacancy							
7. Permanent part-time position for next school year							
8. Permanent part-time position resulting from an unexpected vacancy							

TABLE 22 (Continued) TYPES OF RECRUITMENT USED

SITUATION	NO STANDARD procedure	RECRUITMENT USED			REASON FOR PROCEDURE		
		INSIDE RECRUITMENT ONLY	INSIDE RECRUITMENT FIRST	OUTSIDE RECRUITMENT	BOARD DECISION	ADMINISTRATION DECISION	NEGOTIATED AGREEMENT
CLASSIFIED VACANCIES 1. Permanent full-time position for next school year							
2. Permanent full-time position, resulting from unexpected vacancy							
3. Temporary full-time position for next school year							
4. Temporary full-time position, resulting from unexpected vacancy							
5. Temporary part-time position for next school year							
6. Temporary part-time position resulting from an unexpected vacancy							
7. Permanent part-time position for next school year							
8. Permanent part-time position resulting from an unexpected vacancy							

COMPLETED BY _____
(Name) (Title) (Location) (Date)

TABLE 23 EFFECTS OF INSIDE AND OUTSIDE RECRUITMENT

INSTRUCTIONS: Consult personnel records for the previous school year and the current school year and list each position filled during that time in the appropriate category (e.g., elementary teachers). Record the number of applicants recruited inside the district and the number recruited from outside the district by sex within the categories "minority" and "majority." "Minority" refers to Black Americans, Native Americans, Hispanics/Chicanos and Asian/Pacific Americans. Indicate the sex and race of the person hired and whether this person came from inside or outside the district. Then, refer to the *Corrective Action Guide* for *Recruitment* for assistance in evaluating this information.

POSITION	DATE FILLED	APPLICANTS RECRUITED INSIDE DISTRICT				APPLICANTS RECRUITED OUTSIDE DISTRICT				SEX AND ETHNICITY OF PERSON HIRED	WAS PERSON HIRED FROM INSIDE OR OUTSIDE?
		MINORITY		MAJORITY		MINORITY		MAJORITY			
		FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE		
ELEMENTARY TEACHERS											

TABLE 23 (Continued) EFFECTS OF INSIDE AND OUTSIDE RECRUITMENT

POSITION	DATE FILLED	APPLICANTS RECRUITED INSIDE DISTRICT				APPLICANTS RECRUITED OUTSIDE DISTRICT				SEX AND ETHNICITY OF PERSON HIRED	WAS PERSON HIRED FROM INSIDE OR OUTSIDE?
		MINORITY		MAJORITY		MINORITY		MAJORITY			
		FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE		
SECONDARY TEACHERS											
ADMINISTRATORS											

TABLE 23 (Continued) EFFECTS OF INSIDE AND OUTSIDE RECRUITMENT

POSITION	DATE FILLED	APPLICANTS RECRUITED INSIDE DISTRICT				APPLICANTS RECRUITED OUTSIDE DISTRICT				SEX AND ETHNICITY OF PERSON HIRED	WAS PERSON HIRED FROM INSIDE OR OUTSIDE?
		MINORITY		MAJORITY		MINORITY		MAJORITY			
		FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE		
CLASSIFIED STAFF											

COMPLETED BY _____
(Name) (Title) (Location) (Date)

DATA COLLECTION: EMPLOYMENT

TABLE 24 RECRUITMENT THROUGH ADVERTISING

INSTRUCTIONS: Answer the questions below after reviewing all the district's advertising for the past two years. If the answer to any question is "yes", make a record of the particular example and include it in your self-evaluation documentation. For purposes of the self-evaluation, attach any paid or unpaid advertising and announcements of vacancies distributed by the district. Please refer to the *Corrective Action Guide* for *Recruitment* for assistance in evaluating this information.

	YES	NO
1. Do any of the district's position announcements or ads include a stated preference, limitation or specification of sex (other than those for which the district claims a BFOQ*)?	____	____
2. Do district advertisements fail to specify that the district does not discriminate on the basis of sex and that it is required by Title IX not to discriminate in such a manner?	____	____
3. Does the district run advertisements in any "Help Wanted – Male" or "Help Wanted – Female" columns in any newspaper of other publications?	____	____
4. Does the district use any job titles in its advertising which are traditionally identified with persons of one sex, e.g., titles such as "housekeeper", or which employ the generic male, e.g., titles such as "chairman"?	____	____
5. Do the district's ads or position announcements include any material which may have the effect of encouraging or discouraging members of one sex disproportionately; e.g., inclusion of a statement in the position announcement indicating that there is "great hunting" in the area (a traditionally male activity) without indicating positive features of the community likely to attract women applicants?	____	____

* Sex may be a bona fide occupational qualification under certain limited circumstances. See Table 26 and the *Corrective Action Guide* for BFOQ. Positions for which the district claims a BFOQ should be listed in Table 26.

COMPLETED BY:

(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: RECRUITMENT

REFER TO: Title IX Regulation: §86.9, §86.53, §86.59, §86.60
Achieving Sex Equity: Tables 20, 21, 22, 23 and 24

Schools are prohibited from discriminating on the basis of sex in the recruitment and hiring of employees. This means, of course, that schools may not recruit specifically for "males only" or "females only" (except where sex is a bona fide occupational qualification). (See *Corrective Action Guide:* BFOQ). Moreover, recruitment procedures which result primarily or exclusively in applications from persons of one sex are prohibited if the effect of using such recruitment procedures is to discriminate on the basis of sex in employment. Thus, it becomes important to look at recruitment patterns and the resulting employment patterns of a school district. For example, if a school district hired all male high school teachers one year after recruiting only at men's colleges, the district would likely be found in violation of §86.53(b). Less obvious examples of recruitment patterns adversely affecting equal employment opportunity are common. Tables 20-24 are designed to permit data collection on recruitment procedures and patterns, enabling a district to evaluate its compliance with §86.53.

Table 20 provides information about the procedures used to announce position openings within the district and indicates the situations for which different procedures are used. Table 21 provides information on procedures used to announce position openings to persons outside the district and identifies the situations for which different procedures are used. If the district has difficulty completing Tables 20 and 21 because procedures to announce position openings are not standardized, this is indicative of a problem area. While the Title IX Regulation does not require a standard procedure for announcing vacancies, a district subject to a discrimination complaint needs to be able to demonstrate that its recruitment procedures are nondiscriminatory. Such evidence is difficult to provide if the district does not have a standard procedure for announcing vacancies.

Tables 20 and 21 also pull together the procedure(s) used by the district to announce vacancies to current employees and those outside the district. This compilation should permit the district to determine whether the procedures utilized are likely to be the most effective for communicating employment opportunities to district employees and others, as well as determining whether different procedures are suited to different situations (e.g., the procedure utilized to announce sudden vacancies the best possible procedure for that purpose).

Table 22 identifies the type of recruitment (within district recruitment only, within district recruitment first, and outside recruitment) used in different hiring situations (e.g., noncertificated, certificated; temporary or permanent positions; openings for next school year, sudden openings). If the district has a policy statement identifying the criteria for selecting the type of recruitment procedure to be used in different types of situations, that policy statement should be included in the self-evaluation. Districts which have no standard procedures or clearly identifiable criteria for determining which type of recruitment procedure to use in different situations are cautioned that lack of uniformity may be detrimental if they are subject to a discrimination complaint. While the Title IX Regulation does not require standardization in this area, the Regulation does require nondiscriminatory recruitment. If a prima facie case of discrimination is made against a school district, the district will want to be in a position to prove that its recruit-

ment practices are nondiscriminatory. This is difficult to do if the district has no standard recruitment procedures. (The district's recruitment policies would probably be presumed nondiscriminatory if the district's employment in various job categories reflected proportionate representation of males/females and minorities/nonminorities comprising a pool of qualified people. Unfortunately, most school districts are not in such an enviable position.)

Table 23, "Effects of Inside and Outside Recruitment," provides a format for collecting data to compare the results of recruiting inside the district and the results of recruiting outside the district.

From these data, you should be able to determine whether inside or outside recruitment is more effective for providing equal employment opportunity. The test is which type of recruitment produces a more representative applicant pool, one comprised of both sexes and of both minority and majority persons. You may find inside recruitment more effective in some circumstances and outside recruitment more effective in others; or you may find that one method is always preferable in equal opportunity terms. If neither type of recruitment produces a reasonable measure of representativeness in the applicant pool, you have identified recruitment procedures as a probable trouble spot.

Table 24, "Recruitment through Advertising" asks a series of questions about district advertisements. Advertising, in this context, includes any paid or unpaid ad or any other announcement of employment vacancies within the district. For example, mailing out position descriptions to college placement offices would be considered advertising. If the answer to either questions one or two is yes, the district is clearly in violation of the Title IX Regulation and immediate corrective action should be taken (see §86.59 and §86.9). If the answer to any of the questions three through five is yes, the district may have identified a problem area, resulting in a disparity between applicants of both sexes for certain jobs.

Question three concerns the placement of advertisements in "Help Wanted: Male" or "Help Wanted: Female" columns in a publication. The Title IX Regulation is likely to be interpreted to prevent such advertisements. The U.S. Supreme Court has upheld a local ordinance which prohibited sex-designated advertising columns as a proper regulatory activity to prevent employment discrimination. *Pittsburgh Press Co. v. Pittsburgh Commission on Human Relations,* 413 U.S. 379, 93 S.Ct. 2553 (1973).

Question four addresses the use of sex stereotyped job titles such as "housekeeper" or titles employing the generic male such as "chairman."

Recent research supports the notion that use of such titles adversely affects potential applicants from the sex not traditionally employed in such jobs.[1] However, O.C.R. has issued a case ruling indicating that generic male terms are permissible under Title IX. Nonetheless, a school district for which recruitment is a problem area may wish to employ sex neutral job titles as part of its affirmative action or corrective action efforts.

Question five concerns the inclusion of material in advertisements such as "the area provides great hunting" which might tend to encourage male applicants more than female applicants or, conversely, might discourage female applicants who may conclude the school district is more interested in attracting male applicants. While there has been no O.C.R. ruling on this question, it is possible that the agency may permit inclusion of such

material in advertising. However, the most prudent course would be to remove such material from advertisements; thus, eliminating the possibility of a complaint on this basis.

If district recruitment procedures are a problem area, re-examine the procedures set forth in Tables 20 and 21 and the procedures used in different hiring situations in Table 22. Determine which procedures might produce more equitable results and implement corrective action. Whatever you find, your analysis should assist you in recruitment planning calculated to increase equal employment opportunity.

Section 86.53(a) of the Regulation provides that "(w)here a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination." Clearly, this section requires a positive recruitment program designed to attract persons from the group discriminated against where there has been an official "finding" of discrimination. Such an official finding could be made by the HEW Office for Civil Rights ("letter of finding") or a court. It would seem that this section also specifies the corrective action necessary where a district's self-evaluation reveals a recruitment pattern which has the effect of discriminating against males or females. This conclusion is drawn by reading §86.53(a) in conjunction with §86.3(c)(ii)-(iii) which require districts to modify any discriminatory recruitment practices and to take corrective action to overcome the effects of past discrimination. Districts should recall that §86.3(b) on affirmative action permits (but does not require) that they establish a recruitment program to attract persons from groups underutilized in their employment force.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Employment* section

[1]Bem, S.L. and Bem, D.J., "Does Sex-Biased Job Advertising Aid and Abet Sex Discrimination?" (1973) Journal of Applied Social Psychology, 3:6-18.

DATA COLLECTION: EMPLOYMENT

TABLE 25 EMPLOYMENT CRITERIA, TESTS

INSTRUCTIONS: List each test used in selection, promotion, dismissal and other employment decisions, recording also whether the test has been validated (i.e. shown to be genuinely job-related) and whether the test has a disparate impact (i.e. affects women or minority groups differently, to their disadvantage). The definition of "test" is very broad, including: (1) any paper/pencil or performance measure used as the basis for any employment, (2) all formal, scored, quantified or standardized techniques of assessing job suitability. The latter category includes specific qualifying or disqualifying personal history or background, specific educational or work history requirements, scored interviews, biographical information blanks, interviewers' rating scales, scored application forms, etc.* After completing this form, refer to the *Corrective Action Guide* for *Employment Criteria* for assistance in evaluating this information.

TEST	TO WHAT POSITIONS DOES IT APPLY	HAS IT BEEN VALIDATED? (IF SO, EXPLAIN)	DOES IT HAVE DISPARATE IMPACT? (IF SO, EXPLAIN)

* This definition of "Test" is taken from Equal Employment Opportunity Commission regulations implementing Title VII of the Civil Rights Act of 1964.

TABLE 25 (Continued) EMPLOYMENT CRITERIA, TESTS

TEST	TO WHAT POSITIONS DOES IT APPLY	HAS IT BEEN VALIDATED? (IF SO, EXPLAIN)	DOES IT HAVE DISPARATE IMPACT? (IF SO, EXPLAIN)

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: EMPLOYMENT CRITERIA, TESTS

REFER TO: Title IX Regulation: §86.52
Achieving Sex Equity: Table 25

Section 86.52 provides that a school district shall not use any test or criterion for employment which has a disproportionately adverse effect on persons on the basis of sex, unless the test is shown to predict validly successful performance on the job **and** no alternative test is available which does not have an adverse effect.

This does not mean school districts may not use tests. It does mean that a district may use a test only if it measures job-related qualifications, and is non-discriminatory in its impact, unless no reasonable alternative is available. In testing, as in many other areas of nondiscrimination law, the courts are not concerned with the school district's motive or intent. All that is relevant to an inquiry as to discrimination in administration of a test is whether or not there is a disparate impact, *Griggs v. Duke Power Company,* 401 U.S. 424 (1971). Therefore school districts must be very careful, since lack of intention to discriminate is no defense under Title VII.

This section of the Title IX Regulation is clearly based on Title VII of the 1964 Civil Rights Act and the Equal Employment Opportunity Commission guidelines issued thereunder. School districts should be aware that a validation of tests which have a disparate impact is required by Title VII which prohibits discrimination on the basis of race, religion, sex and national origin. The three validation methods discussed below are specifically authorized by the EEOC guidelines. ("Guidelines on Employee Selection Procedures", Title 29, *Code of Federal Regulations,* Part 1607, p. 894.) The definition of "tests" is very broad under Title VII. It includes not only the traditional paper-and-pencil definition, but it has been interpreted by EEOC to mean *any* device used to select employees for hiring or for promotion. The "Uniform Guidelines on Employee Selection Procedure" now replace the EEOC guidelines on test validation. The new guidelines differ somewhat from the former EEOC guidelines.

First, the concept of "tests" is replaced by that of "employment selection procedures." Because of the broad definition given to the term "test" by the EEOC, the change in terminology clarifies the intent of the enforcement agency. "Selection Procedure" is defined as "(a)ny measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques from traditional paper-and-pencil tests, performance tests, training programs or probationary periods and physical, educational and work experience requirements through informal or casual interviews and unscored application forms." *(Federal Register,* Vol. 43, No. 166, p. 38308, August 25, 1978.) It is likely that the Office for Civil Rights will interpret the section on testing in the Title IX Regulation in a manner consistent with the new Uniform Guidelines.

Secondly, the Uniform Guidelines adopt the four-fifths or eighty percent rule. This "rule of thumb" serves as a practical means to determine when a selection procedure has an adverse impact on members of one or more ethnic/racial groups or on members of one sex. Whenever the selection rate for any ethnic, race, or sex group is less than eighty percent of the selection rate for the group from which employees are most frequently selected, the employment procedure is deemed to be one with an adverse impact under the rule. If there is adverse impact, the employer should eliminate or modify the selection procedure so as to avoid the adverse impact or attempt to validate the selection pro-

cedure. Validation may be achieved by the methods described above: criterion-related validity, content validity, and construct validity. It is important to remember that an employer does not have to conduct a validity study of selection procedures where no adverse impact results. Thus, when the district asks an applicant to provide a personal history or background, and the candidate's statement affects his ranking, that personal history would be deemed an employment "test." Additionally, specific educational or work history requirements, scored interviews, biographical information blanks, interviewers' rating scales, and scored application forms would all fit within the EEOC definition of a test.

All tests should be validated to determine whether or not a specific test or criterion has a significant relationship to actual performance on the job. There are three ways this validation can be done.

(1) **Criterion-Related Validation:** A test has criterion-related validation if test scores match job performance ratings.

(2) **Construct Validation:** Construct validation tests for traits which are necessary for the performance of the job.

(3) **Content Validation:** Content validation requires a test that closely duplicates the duties of the job.

School districts must be cautious, however, because even if a test is shown to be a valid predictor of success, its use may still be prohibited. If the test has a disparate effect, the school district must then establish that no alternative valid predictor is available which does not produce the discriminatory result. The above is not to confuse, but to warn that this area is complicated. Tests must be validated by the school districts. Districts may wish to seek technical assistance with test validation due to the complexity of the area.

In summary, the school district must look closely at all procedures used in hiring and promotion. These procedures, to the extent that they include any tests (which is broadly defined), must be checked to be sure the tests measure job-related characteristics and have no disparate impact. If there is a disparate impact, the school district must be able to show that there is no alternative test available which does not discriminate.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Employment* section.

DATA COLLECTION: EMPLOYMENT

TABLE 26 SEX AS A BONA FIDE OCCUPATIONAL QUALIFICATION

INSTRUCTIONS: List below each of the positions for which only men or only women are hired. Include part-time and extra-duty assignments. For each of these positions for which sex is one of the qualifications, record the justification for this decision in the third column. For more information, refer to the *Corrective Action Guide* for *Sex as a Bona Fide Occupational Qualification* for assistance in evaluating this information.

NAME OF POSITION/ASSIGNMENT	FOR WHICH SEX IS THIS JOB RESERVED?	RATIONALE FOR SEX AS A JOB QUALIFICATION

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: Sex as a Bona Fide Occupational Qualification (BFOQ)

REFER TO: Title IX Regulation: §86.61
Achieving Sex Equity: Table 26

In justifying a Bona Fide Occupational Qualification (BFOQ) exception, two tests must be met: (1) sex must be an actual qualification for performing the job, and; (2) the requirement must be necessary to the normal operation of an employer's business, *Diaz. v. Pan American World Airways, Inc.*, 442 F. 2d 385 (5th Cir. 1971). Consistent with this definition are decisions of the courts and the Equal Employment Opportunity Commission which hold that the BFOQ exception must be narrowly defined. The U.S. Supreme Court adopted this view in *Dothard v. Rawlinson,* 403 U.S. 321 (1978), where the court said that the BFOQ exception "is meant to be a very narrow exception to the general prohibition of discrimination on the basis of sex." The BFOQ exception cannot be justified by assumptions about the comparative employment characteristics of women and men in general, by stereotyped characterization of the sexes, or by the preferences of co-workers, employers, clients or customers.

Section 86.61 provides further that an employer may consider an employee's sex when hiring people to work in a locker room or toilet facility used only by members of one sex. Employers may use the exception wherever applicable. However, it is questionable whether this exception would apply in a situation where only a small percentage of the employee's total job duties require him or her to have locker room responsibilities. If only a small percentage of an employee's time is spent on the locker room assignment, the employer must explore alternative ways of covering the locker room supervision time in order to keep a particular job open to either sex. The locker room time cannot be used to restrict a job by sex, if the locker room time is only a small or incidental part of the total job duties, and is determined by the courts to be only a pretext for discrimination.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the Employment section.

DATA COLLECTION: EMPLOYMENT

TABLE 27 COMPENSATION

INSTRUCTIONS: Record the appropriate numbers of district employees in each of the columns below according to actual salary received. That is, salaries reported should include any increments to base salary for extra-duty or special assignments, or for additional education or previous experience. "Minority" refers to Black Americans, Asian Americans, Hispanic Americans/Chicanos, and Native Americans. After completing this table, refer to the *Corrective Action Guide* for *Compensation* for assistance in evaluating this information.

ANNUAL SALARY	TOTAL	FEMALES		MALES	
		MINORITY	MAJORITY	MINORITY	MAJORITY
Less than 5,000					
5,000 – 7,499					
7,500 – 9,999					
10,000 – 12,499					
12,500 – 14,999					
15,000 – 17,499					
17,500 – 19,999					
20,000 – 22,499					
22,500 – 24,999					
25,000 or more					

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: COMPENSATION

REFER TO: Title IX Regulation: §86.51(b)(3), §86.54 and §86.57(a)(2)
Achieving Sex Equity: Table 27

The Regulation requires nondiscrimination on the basis of sex in rates of pay or any other form of compensation, e.g., fringe benefits (perquisites such as free housing or meals). Moreover, changes in compensation such as salary raises must be nondiscriminatory (§86.51(b)(3)). Policies or practices which make distinctions on the basis of sex in rates of pay or other compensation are specifically prohibited as are policies or practices violating the basic principle of equal pay: persons of one sex should be paid the same as persons of the other sex in jobs requiring equal skill, effort and responsibility, and which are performed under similar working conditions (§86.54). This basic principle was first annunciated in the Equal Pay Act of 1963 and has since been implemented by the Department of Labor and reiterated by the courts:

Jobs do not have to be identical to require equal pay. For example, if a male janitor and female housekeeper perform essentially or substantially the same duties, the District is required to compensate them equally despite minor differences in job descriptions. One practice that frequently resulted in the award of lower compensation to women as a group is the policy of paying a higher rate to "heads of household" or "principal wage earners." This practice is prohibited by Section 86.57(a)(2). If the District has such policies or practices, immediate correction is necessary.

Table 27 provides the District with a breakdown by race and sex and compensation received by employees. If an examination of the data included on the table reveals a pattern or clustering of employees in certain pay ranges, by sex, then the District needs to analyze its compensation policies and practices further to insure compliance with the Title IX Regulations. The first step, in such an analysis, is to identify the reasons for the salary grouping by sex.

If the top salary brackets are primarily or exclusively occupied by males, one possible explanation is that higher paying administrative positions are held by males. Thus, a breakdown of compensation, by sex, within the categories of teaching personnel and administrative personnel, would be appropriate. If the assignment of jobs by sex appears to be the major factor creating salary differentials, the District may not be in violation of the Regulation sections dealing with compensation. However, the District would have identified a problem in job assignment, and efforts should be made to provide women with equal opportunity in administrative positions.

Another possible explanation for salary differentials is that one sex receives a disproportionate amount of compensation for extra duty assignments. Table 28, discussed below, permits collection of data on such assignments. By examining Tables 27 and 28 together, Districts should be able to determine whether extra duty compensation is a prime reason for salary differential by sex. It is, of course, possible for sex based differentials in salary to be based on on a nondiscriminatory factor such as years of teaching experience of the District's employees. If this is the case, the District needs to establish that fact.

The number of credit hours beyond a bachelor's degree also effects compensation. If males, or females, have completed substantially more credit hours than teachers of the other sex, this could create pattern salary differentials. If this is a contributing factor,

then the District needs to examine whether its policies and practices contributed to the difference of acquisition of additional credits by males and females.

In any case, the District's analysis should be aimed at identifying the reasons for sex based differentials in compensation and taking corrective action to counter the effect of factors contributing to the difference which are within District control.

If corrective action in this area is needed, proceed to the *Corrective Action* page at the end of the *Employment* section.

TABLE 28 EXTRA-DUTY ASSIGNMENTS

INSTRUCTIONS: On the chart below, list all extra-duty assignments currently undertaken by district staff, the sex of the staff person involved and the compensation received. Be specific, e.g., Future Homemakers' Club Advisor, Boys' Junior Varsity Basketball Coach, etc. Refer to the *Corrective Action Guide* for *Extra-Duty Assignments* for assistance in evaluating this information.

EXTRA-DUTY ASSIGNMENT	SEX OF STAFF MEMBER	COMPENSATION
ATHLETICS:		
EXTRACURRICULAR ACTIVITIES:		

TABLE 28 (Continued) EXTRA-DUTY ASSIGNMENTS

EXTRA-DUTY ASSIGNMENT	SEX OF STAFF MEMBER	COMPENSATION
EXTRACURRICULAR ACTIVITIES (continued):		
ADMINISTRATIVE/SPECIAL PROJECTS:		
EXTRA SUPERVISORY ASSIGNMENTS (e.g., dance chaperone, parking lot supervisor, etc.)		

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: EXTRA-DUTY ASSIGNMENTS

REFER TO: Title IX Regulation: §86.51(b)(3)(4) and §86.54
Achieving Sex Equity: Table 28

Table 28 provides information on extra-duty assignments. The concern with extra-duty assignments is two-fold: the Title IX Regulation requires equal treatment of employees in terms of job assignment and in terms of compensation.

Several problems can arise in relation to the allocation of extra-duty assignments. A District may be in the practice of assigning only faculty of one sex to certain duties based on stereotypes of appropriate roles for members of each sex (e.g., assign only female advisors for Drama Club and Rally Squad or only male advisors for Radio Club, Chess Club and athletic events). The existence of a pattern of assignment, concurrent with traditional sex role stereotyping, may not be indicative of discriminatory assignment since the pattern could result from individual faculty choice or based on qualifications of the faculty. However, the District might consider clarifying its policy of nondiscrimination in assignments and establishing a procedure to insure that all interested faculty are considered for extra-duty assignment without regard to sex.

A second consideration when examining extra-duty assignments is the allocation of assignments which may provide experience which will qualify a faculty member for future promotions. Special project/administrative assignments, and assignments such as head coach or social studies department head, which encompass personnel management, budgetary and other administrative responsibilities are the types of assignments which often provide experience helpful to a faculty member interested in administrative positions. The District should be certain that its method of making such assignments is nondiscriminatory.

Particular care should be exercised in athletic assignments. Some districts have followed the practice of appointing one head coach for a single sport such as basketball and assigning all other coaches to positions of assistant coach. If the head coach is by definition the coach of the boys' team, this practice would be highly questionable under Title IX. If the district's pattern of appointments was such that all head coaches were male and all female coaches were designated assistant coaches, the district might also be found to discriminate in job assignments (see §86.51(a)(2), §86.51(b)(4); and §86.55).

Thirdly, Districts should examine their practices and patterns of assignments to make certain that one sex is neither unduly burdened with undesirable assignments, nor expected to accept a disproportionate number of assignments.

Compensation for extra duty assignments is required to be nondiscriminatory. The basic guidelines for equal pay incorporated within the Title IX Regulations are those developed by the Department of Labor and Federal Courts under the Equal Pay Act. As stated above, they mandate equal pay for substantially similar jobs which require comparable skill, effort and responsibility. A District is not relieved from its obligation to provide equal pay because its teacher's agreement sets compensation for extra-duty assignment (see §86.51(b)(5) and §86.58). Thus, Districts need to pay close attention to negotiations concerning compensation schedules for extra-duty assignments.

Generally, the Office for Civil Rights, HEW, advises the use of objective criteria to deter-

mine extra-duty compensation. One of the most common questions in this area is whether School Districts may consider the "pressure," or "stress" factor in determining coach's compensation. The theory behind use of the "stress" factor is that coaches of boys' teams are under greater school/community pressure to produce winning teams than coaches of girls' teams. During the summer of 1977, HEW responded to an inquiry on this point, stating that use of criteria for coach compensation such as the number of student athletes, the number of assistants, and the number of events are acceptable objective criteria. However, HEW reasoned that "stress" or "pressure" could not be objectively measured and, thus, was not an acceptable criterion. Moreover, HEW cautioned that if salaries for boys' and girls' coaches were based on objective criteria, but were not substantially similar, then that fact might be indicative of a denial of equal athletic opportunity for students of one sex under §86.41.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Employment* section.

TABLE 29 EXTENDED CONTRACTS

INSTRUCTIONS: In each category (teachers, administrators and classified) enter the number of females and males according to the length of their current contract. Refer to the *Corrective Action Guide* for *Extended Contracts* for assistance in evaluating this information.

	9 MONTH	10 MONTH	11 MONTH	12 MONTH
CERTIFIED TEACHERS				
FEMALES				
MALES				
ADMINISTRATORS				
FEMALES				
MALES				
CLASSIFIED				
FEMALES				
MALES				

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: EXTENDED CONTRACTS

REFER TO: Title IX Regulation: §86.51(a)(2); §86.51(b)(3), (4), (8), (10); §86.54, §86.55

Achieving Sex Equity: Table 29

Table 29 compiles information on the distribution of extended contracts by job category and sex. This data permits the school district to determine whether its award of extended contract results in a sex-based pattern. If it appears that members of one sex receive a disproportionate share of extended contracts, the district should be concerned about a possible violation of certain sections of the Title IX Regulations. Perhaps the most obvious problem with the district practice of awarding extended contracts primarily to members of one sex is that it may be discriminating in job assignment (see §86.51(a)(2); §86.51(4); and §86.55). More importantly, however, extended contracts result in higher compensation; thus, discriminatory job assignment may result in discrimination in compensation (see §86.51(b)(3) and §86.54).

While higher compensation accompanies extended contracts, vacation time is obviously reduced. Therefore, if the district required or pressured males but not females to accept extended contracts even where employees preferred to have a summer off, the results would likely violate the Title IX Regulation (see §86.51(b)(10)).

Another possible violation concerns the relationship between extended contracts and formal or informal training opportunities. Often completion of special assignments for which faculty are given extended contracts provide an opportunity to acquire new skills and/or administrative experience necessary for promotion. Teachers interested in promotions to administrative jobs or administrators interested in moving up the career ladder may benefit from the award of extended contracts. If the districts' practice of awarding extended contracts is sex based, this may result in discrimination in the provision of training opportunities (see §86.51(b)(8)).

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Employment* section.

TABLE 30 PROMOTIONS

INSTRUCTIONS: In each category (certificated and classified) record the promotions awarded over the last two years as indicated below. List each promotion by the promoted person's present position. Changes of status which bring an upward change in rank or responsibility should be considered promotions. Indicate the procedure used to fill the higher position and the salary increase resulting. Refer to the *Corrective Action Guide* for *Promotions* for assistance in evaluating this information.

	CURRENT POSITION	FORMER POSITION	PROCEDURE USED IN FILLING HIGHER POSITION	AMOUNT OF SALARY INCREASE	SEX OF PERSON PROMOTED
CERTIFICATED					
CLASSIFIED					

COMPLETED BY _____

(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: PROMOTIONS

REFER TO: Title IX Regulation: §86.55(b)(c)
Achieving Sex Equity: Table 30

Sex discrimination in the granting of promotions can occur in several ways. Differential criteria can be applied to male and female candidates for a given position. Opportunities to obtain the necessary experience and/or education for promotion can be informally limited to one sex. Segregation of the sexes into certain job classifications, such as clerical classifications, can result in sex segregated lines of progression career ladders.

Section 86.55 prohibits a school district from classifying jobs as being for males or females and from establishing separate lines of progression, seniority lists, career ladders, or tenure systems based on sex. If inclusion in a sex-linked job classification adversely affects a person's opportunity to progress, the employer may be found to have discriminated in promotional opportunities.

A school district need not label jobs as being for males or females in order to be found to have classified the job on the basis of sex. It is sufficient if there is an identifiable job category which can be shown to have been limited to one sex, *Laffey v. Northwest Airlines, Inc.*, 366 F. Supp. 763 (D.D.C. 1973).

For example, Anaconda Aluminum Company, classified formerly "male" and "female" jobs as "light" and "heavy." The "light" category consisted of all females, who were prevented from transferring into the "heavy" category. This practice perpetuated the earlier discriminatory practices and prevented females from becoming a part of the promotional system. A federal court found, in *Newton v. Anaconda Aluminum Company* (unreported, U.S. District Court, Louisville, Ky., CA No. 6340, September 1969. See EEOC Press Release, June 30, 1969) that this practice constituted prohibited sex discrimination. By analogy, one might conclude that a school district which limited head coaching positions to persons who had formerly served as coach of a boy's team was engaging in sex discrimination by limiting promotional opportunities of women coaches.

Similarly a school district must be conscious of going beyond the past or current labels on a job and attempt to remove all barriers to promotion. If coaching, historically a predominately male activity, is identified as one internal step in the progression up the administrative ladder, school districts should take care to identify and encourage female coaches as potential administrators in the same manner as male coaches have traditionally been identified or encouraged. Thus, school districts must identify the formal and informal ways that coaches become principals and move up in the administrative hierarchy and include female employees in those processes. Beyond this change, districts must examine whether giving preference to those with coaching experience will continue to have a disparate impact on female candidates for administrative positions. If so, the job relatedness of such a formal or informal qualification must be established. (See the section on Employment Criteria.)

School Districts should also be careful that assumptions are not made about potential female administrators. Such assumptions include: "she wouldn't want the responsibility/long hours"; "her children are too small for her to take on an administrative task"; "her husband wouldn't want her to attend late meetings." These perceptions must be verified with the women involved and additional care must be taken to avoid generalizing from one woman's responses to all women.

CORRECTIVE ACTION GUIDE: PROMOTIONS *(Continued)*

One of the best ways to avoid charges of promotion discrimination is to establish a set of objective criteria for evaluating job performance and base all selection for promotion on those standards. Eligibility standards must be job-related. Criteria, nondiscriminatory on their face, should not be permitted to operate unfairly or to disproportionately disqualify women or minorities, or to perpetuate past bias.*

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Employment* section.

*In complying with Title VII of the 1964 Civil Rights Act, school districts should remember that the four-fifths rule established by the Uniform Guidelines applies to promotions. Therefore, if the selection rate for promotions of members of one sex is less than eighty percent of the rate of the other sex, school districts must either eliminate or modify the promotional selection procedures to avoid the adverse impact or validate those procedures. (See the section on *Employment Criteria, Tests* for information on validation methods.)

TABLE 31 TERMINATION, DEMOTION, TRANSFER AND REHIRE

INSTRUCTIONS: Consult personnel records for the previous school year and the current school year and list each termination, demotion, transfer or rehire which has occurred during that time in the appropriate category. Indicate the sex of the employee terminated, demoted or transferred; the type of appointment the person held, that is, administrative, teaching, or classified; the original position title of the employee and the new position title after demotion or transfer; the date terminated, demoted or transferred and the reason for the change, as well as voluntary termination, and the reason offered by the employee. Include lateral transfers in the chart, that is, persons who move from teaching third grade in one school to teaching third grade in another school. For former employees of the district who have been rehired, indicate whether the employee was rehired after completion of a competitive selection process. Then, refer to the *Corrective Action Guide* for *Termination, Demotion, Transfer and Rehire* for assistance in evaluating this information.

TERMINATIONS				
EMPLOYEE'S SEX	TYPE OF APPOINTMENT (ADMIN/TEACHING/ CLASSIFIED)	POSITION	DATE TERMINATED	REASON TERMINATED

TABLE 31 (Continued) TERMINATION, DEMOTION, TRANSFER AND REHIRE

DEMOTIONS					
EMPLOYEE'S SEX	TYPE OF APPOINTMENT (ADMIN/TEACHING/ CLASSIFIED)	ORIGINAL POSITION	NEW POSITION	DATE DEMOTED	REASON DEMOTED

TABLE 31 (Continued) TERMINATION, DEMOTION, TRANSFER AND REHIRE

TRANSFERS					
EMPLOYEE'S SEX	TYPE OF APPOINTMENT (ADMIN/TEACHING/ CLASSIFIED)	ORIGINAL POSITION	NEW POSITION	DATE TRANSFERRED	REASON TRANSFERRED

TABLE 31 (Continued) TERMINATION, DEMOTION, TRANSFER AND REHIRE

		REHIRE			
EMPLOYEE'S SEX	TYPE OF APPOINTMENT (ADMIN/TEACHING/ CLASSIFIED)	ORIGINAL POSITION	NEW POSITION	DATE REHIRED	DID THE EMPLOYEE GO THROUGH A COMPETITIVE PROCESS BEFORE REHIRING?

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: TERMINATION, DEMOTION, TRANSFER & REHIRE

REFER TO: Title IX Regulation: §86.51 (b)(2)
Achieving Sex Equity: Table 31

The Title IX Regulation prohibits discrimination on the basis of sex in demotion, transfer, layoff, termination, right of return from layoff and rehiring. Table 30 provides the basic data necessary for school districts to analyze their practices regarding termination, demotion, transfer and rehire to determine whether there is a disproportionate impact on members of one sex. As was explained in the section on *Corrective Action Guide* for *Hiring*, discrimination may be established by unrebutted statistical analyses. Therefore, careful attention should be paid to any indication of adverse impact in regard to termination, demotion, transfer and rehire.

Every effort should be made to establish the reason for a pattern evidencing adverse impact on one sex. If discriminatory policies or practices appear to have contributed to the adverse impact, corrective action should be taken.*

If corrective action is needed in this area, proceed to the *Compliance Records* page at the end of the *Employment* section.

* In complying with Title VII of the 1964 Civil Rights Act, school districts should remember that the four-fifths rule established by the Uniform Guidelines applies to all selection procedures, including termination, demotion, transfer and rehire. Therefore, if the rate of terminations, demotions, or transfers of members of one sex is less than eighty percent of the rate of the other sex, school districts must either eliminate or modify the promotional selection procedures to avoid the adverse impact or validate those procedures. Also, if one sex has a disproportionately high percentage of rehires, the four-fifths rule may be violated. (See the section on *Employment Criteria, Tests* for information on validation methods.)

TABLE 32 STAFF DEVELOPMENT OPPORTUNITIES

INSTRUCTIONS: Answer the questions below, grouping female staff members and male staff members separately. Refer to the *Corrective Action Guide* for *Staff Development Opportunities* for assistance in evaluating this information.

	FEMALE STAFF MEMBERS	MALE STAFF MEMBERS
1. How many professional leave days have been granted this school year?		
2. How many professional leave days have been requested this school year?		
3. How many personal leave days have been granted to be used by the employee for staff development purposes?		
4. How many personal leave days have been requested to be used by the employee for staff development purposes?		
5. How many employees have received financial support for attending workshops or conferences? (Include tuition or registration fees and travel expenses)		
6. How many employees have requested financial support for attending workshops or conferences?		
7. What are the amounts of tuition reimbursement funds expended this school year?		
8. What are the amounts of tuition reimbursement funds requested this school year?		

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: STAFF DEVELOPMENT OPPORTUNITIES

REFER TO: Title IX Regulation: §86.55
Achieving Sex Equity: Table 32

If the self-evaluation shows that male or female employees are requesting and/or receiving disproportionately more leave time, the school district must check further to see why that may be happening. Has there been a pattern of employees of one sex consistently receiving the leave time and other financial support for staff development activities? Has there been a pattern of employees of the other sex consistently being denied leave time or financial support? If so, this might account for fewer requests for these employees.

Are all potential workshop opportunities posted so that all employees are aware of them? Who within the district decides whether teachers will be released for workshops and what fees will be paid? Have the beneficiaries of staff development benefits been predominately of one sex?

If the answers to the self-evaluation and/or the above questions show that male or female employees are receiving a disproportionate share of the staff development funds, the district must initiate corrective action to more fairly distribute these growth opportunities to both male and female employees.

If corrective action is needed in this area, proceed to the *Compliance Records* page at the end of the *Employment* section.

TABLE 33 MEDICAL AND RETIREMENT BENEFITS

INSTRUCTIONS: Answer the following questions about medical and retirement policies for district employees. Negative answers indicate areas of possible noncompliance. Refer to the *Corrective Action Guide* for *Medical and Retirement Benefits* for assistance in evaluating this information.

MEDICAL BENEFITS:

1. Is the same medical coverage available to employees of both sexes? YES ____ NO ____
2. Are pregnancy and pregnancy-related conditions covered for female employees? YES ____ NO ____
3. Are medical benefits to the dependents (including spouses) of female and male employees the same? YES ____ NO ____

ELIGIBILITY FOR RETIREMENT:

1. Is the compulsory retirement age the same for male and female employees? YES ____ NO ____
2. Is the optional retirement age the same for male and female employees? YES ____ NO ____
3. Is the number of years of service required for eligibility for retirement the same for male and female employees? YES ____ NO ____

RETIREMENT BENEFITS:

1. Does the school district contribute the same amount for female and male employees? YES ____ NO ____
2. Do female and male employees contribute the same amount? YES ____ NO ____
3. Upon retirement, do female and male employees receive the same monthly retirement benefits? YES ____ NO ____
4. Does the retirement plan provide for survivors benefits? YES ____ NO ____
5. If survivors' benefits are provided, do the male spouses or dependents of female employees get the same benefits as the female spouses or dependents of male employees? YES ____ NO ____

DEATH BENEFITS:

1. Does the school district contribute the same amount for female and male employees? YES ____ NO ____
2. Do female and male employees contribute the same amount? YES ____ NO ____
3. Upon death, do female and male employees receive the same death benefits? YES ____ NO ____

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: MEDICAL BENEFITS

REFER TO: Title IX Regulation: §86.56
Achieving Sex Equity: Table 33

This section of Title IX prohibits the school district from making medical benefits or any other fringe benefits, including hospital, accident, life insurance, retirement, profit sharing, and leave plans available to employees or dependents of employees differently on the basis of sex. Thus, a school district cannot make family plan coverage available to male married employees, but deny such coverage to female married employees. Benefits available to wives of male employees must also be available to female employees. Nor can benefits be conditioned on the basis that the employee is "head of household" or "principal wage earner." Such condition is not job related and tends to discriminate unduly against females.

This section of the Regulation also requires coverage of pregnancy in the same manner as any other temporary disability. The Title IX Regulation defines "pregnancy and related conditions" as "pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom." For a detailed discussion of pregnancy, and recent Supreme Court decisions under Title VII, refer to the *Corrective Action Guide* for *Marital and Parental Status*.

If corrective action is needed in this area, proceed to the *Compliance Records* page at the end of the *Employment* section.

CORRECTIVE ACTION GUIDE: RETIREMENT BENEFITS

REFER TO: Title IX Regulation: §86.56 (b) (2), §86.56 (b) (3)
Achieving Sex Equity: Table 33

Schools must analyze their retirement benefit plans to insure that this aspect of the employment process is free of disciminatory treatment on the basis of sex. It should be remembered that Title IX does not require that school districts provide employees with retirement benefits. Title IX requires only that any benefits provided by the district be provided on a non-sex-discriminatory basis.

One useful place to begin this examination is by checking the amount the school district contributes to the retirement plan. Does the school district contribute the same amount for female and male employees? If employees must also contribute to the plan, do female and male employees contribute the same amount? Do both male and female employees with comparable work histories receive equal monthly benefits upon retirement? If the retirement benefit plan includes survivors' benefits, do the male spouses or other dependents of female employees receive the same benefits as the female spouses or other dependents of male employees? If the answer to any of the above questions is no, then the district may need to take corrective action.

Title IX compliance, as well as the provisions of the Equal Pay Act and Executive order 11246, require that schools either provide equal contributions or equal benefits. This means that schools are required either to contribute the same amount for males and females to the retirement plan or to establish a plan which guarantees equal benefits to males and females even if the district had to contribute more to the plan for female employees. However, school districts must be aware that the Title VII Regulations do not allow this option. Title VII requires that equal benefits be available to all employees regardless of whether the school district contributes equal or unequal amounts to the plan for employees of each sex. This interpretation was upheld by a Federal District Court in *Henderson v. Oregon,* (D.C.Or.) 405 F. Supp. 1271 (1975), U.S. 98 S. Ct. 1370 (1978), 55 LEd 2d657, (1978).

Therefore, in order to assure that school district policies and practices are free from any potential employment practices problems, the most prudent course to follow would be to be sure that their employees receive equal monthly benefits under their retirement plans.

Many retirement plans call for mandatory contributions by employees as well as employer contributions. It is not permissible under any equal employment opportunity legislation for an employer to require unequal contributions to be made on the basis of sex. It is permissible for employees to make different contributions to retirement plans if these different contributions are a result of the exercise of individual retirement planning options which are not based on sex differences.

Several situations have arisen where female employees have been required to contribute more toward their pension plans than male employees. These increased contributions were based on life expectancy data, which showed that females, on the average, live longer than males. Therefore, employers justified the increased cost for women on the likelihood that they would draw benefits for a longer period of time. Cases brought under Title VII challenging this practice have uniformly held this practice to be discriminatory and invalid. Courts have reiterated that employers must treat employees as individuals

and not base decisions affecting individual employees on general characteristics of a class of people to which the employee belongs. In *City of Los Angeles Department of Water and Power v. Manhart*, 98 S. Ct. 1370(1978), the U.S. Supreme Court held that the department's requirement that female employees make larger contributions to its pension fund than male employees to be in violation of Title VII. Therefore, pension plans which require larger contributions from female employees simply because they are female are discriminatory. Corrective action is clearly necessary if a school district requires unequal contributions to a retirement plan from male and female employees. School district policy should be amended to provide a contribution scale which is not differentiated on the basis of sex. Moreover, corrective action is needed to insure school district compliance with EEOC Regulations under Title VII if equal benefits are not provided for employees without regard to their sex. It appears from Manhart that employers contracting with insurance companies for retirement benefit plans may require equal contributions from employees and then contribute whatever amount is necessary to insure equal benefits for retirees without regard to sex. Insurance companies are not prohibited from considering the composition by sex of an employer's workforce in determining the cost of a retirement plan. Thus, corrective action to equalize benefits for males and females might require an increased contribution to the retirement plan by the school district.

If corrective action is needed in this area, proceed to the *Compliance Records* page at the end of the *Employment* section.

CORRECTIVE ACTION GUIDE: ELIGIBILITY FOR RETIREMENT

REFER TO: Title IX Regulation: §86.56 (b) (3)
Achieving Sex Equity: Table 33

If there is a compulsory retirement age, it must be the same for male and female employees, §86.56(b)(3). This retirement is consistent with Title VII law. Several federal courts have applied Title VII to require that a compulsory retirement age be the same for both sexes. *Chastang v. Flynn and Emrich Co.*, 541 F.2d 1040 (4th Cir. 1976), *Rosen v. Public Service Electric and Gas Co.*, 477 F.2d 90 (3rd Cir. 1973), *Bartness v. Drewrys USA Inc.*, 44 F.2d 1186 (7th Cir. 1971), *cert. denied*, 404 U.S. 939 (1971).

It is impermissible to require men to have more years of service than women in order to establish their eligibility for retirement benefits. In addition, under Title VII, early retirement with reduction in benefits must be available to both sexes, if available at all; and no additional requirements for early retirement can be placed on one sex only. For instance, some employers permitted females to retire at age sixty without any reduction in benefits, but male employees could retire at age sixty only if the male employee was willing to receive reduced benefits and had twenty-five years of continuous service. This practice illegally discriminates against men on the basis of their sex.

If corrective action is needed, school districts should consider amending school district policy to provide for mandatory and/or optional retirement at the same age and under the same conditions for males and females. If school district policy required a male employee (but not a female employee) to take reduced benefits upon early retirement, the district may be required to provide retroactive benefits to any male who received reduced benefits. Specific legal advice should be sought on this question.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Employment* section.

TABLE 34 LEAVE BENEFITS

INSTRUCTIONS: For each kind of leave listed in column one, record in column two the number of female and male employees who requested that kind of leave during both the current school year and the year immediately preceeding. In the third column, record the number of female and male employees who were actually granted the requested leave. Refer to the *Corrective Action Guide* for *Leave Benefits* for assistance in evaluating this information.

TYPE OF LEAVE	PERSONS REQUESTING THIS LEAVE		PERSONS GRANTED THIS LEAVE	
	NUMBER OF FEMALES	NUMBER OF MALES	NUMBER OF FEMALES	NUMBER OF MALES
EMERGENCY				
MEDICAL				
SABBATICAL				
PROFESSIONAL/EDUCATIONAL				
ADMINISTRATIVE				

COMPLETED BY _____
(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: LEAVE BENEFITS

REFER TO: Title IX Regulation: §86.51(b)(6), §86.51(a)(2)
Achieving Sex Equity: Table 34

The Title IX Regulation applies to the "granting and returning from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave." The status of the Regulation and related law concerning childbirth and pregnancy leave is discussed below. (See the *Corrective Action Guide: Parental and Marital Status.)*

Table 34 provides information on the types of leaves requested and granted by the district. The first thing for the district to evaluate is whether the ratio of requests to grants is proportional for male and female employees. In other words, does one sex get a significantly higher percentage of requested leaves granted? If so, there is a sex-based pattern of providing leave benefits which may violate the Regulation (§86.51(a)(2) or §86.51(b)(6)).

A second factor to evaluate is whether males or females request a disproportionate number of leaves overall or a disproportionate number of a particular kind of leave. (Pregnancy leave is an obvious exception to the above.) If one sex requests, for example, a disproportionate number of education leaves, the district should ensure that its policies and practices are not responsible for this pattern (e.g., a tendency on the part of administrators to give more encouragement to members of one sex to continue their education.) It is particularly important that encouragement to pursue additional education and/or certification for new positions not be provided disproportionately to employees of one sex because the acquisition of such training enables an employee to qualify for promotional opportunities. Thus, discrimination in the provision of leaves may result in discrimination in promotions. As a corrective measure, the district could take steps to affirm its policy of equal opportunity in the provision of leave benefits and review administrative practices to ensure that equal job counseling occurs.

In the past, many districts provided female teachers with the opportunities to take leave in order to devote full time to child rearing for one or more years. Title IX prohibits such a sex-based policy or practice. If child-rearing leaves are to be granted at all, they must be available equally to males and females (§86.51(b)(6)). (The term "child-rearing leave" as used in this context must be distinguished from leaves for mothers who are temporarily disabled by the birth of a child. Such leaves discussed below in the section in the *Corrective Action Guide: Parental and Marital Status,* are often termed "child-bearing leaves."

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Employment* section.

TABLE 35 NEPOTISM POLICIES

INSTRUCTIONS: Answer the following questions about nepotism policies concerning district employees or applicants for employment. While negative answers do not necessarily indicate non-compliance with Title IX, they indicate areas which the district should consider in light or various legal considerations and in terms of the practical impact on sex equity in employment. Refer to *Corrective Action Guide* for *Nepotism Policies* for assistance in evaluating this information.

	YES	NO
1. Does your district have a formal antinepotism policy which limits the employment of persons related by blood or marriage?	____	____
2. Does your district have any informal practices which limit the employment of persons related by blood or marriage? (These pratices might exist in addition to a formal policy or instead of one.)	____	____
(If the answer to questions 1 and 2 is "no", you may stop here)		
3. a) Is your antinepotism policy disclosed to all applicants for employment?	____	____
b) Is the disclosure written or verbal?	____	____
c) Is the disclosure handled in such a manner that it is clear to the applicant that you are not soliciting information about their marital or parental status?	____	____
4. a) Does the policy not forbid hiring spouses for any purposes if simply preventing spouses from being in a supervisory capacity with respect to each other will accomplish the desired result?	____	____
b) Does the policy provide for transfer of one spouse where possible rather than termination?	____	____
c) Overall, is the policy carefully drawn so as to affect *only* those persons necessary?	____	____
5. If one of two spouses must terminate or be transferred, does the policy leave the decision as to which one must be affected to the couple rather than to impose it on either?	____	____

TABLE 35 (Continued) NEPOTISM POLICIES

	YES	NO
6. If the policy imposes standards to determine who will be terminated, are those standards neutral (i.e. seniority with the district, etc.)?	____	____
7. If neutral standards are imposed to determine who will be terminated, do those standards have a disparate impact on women?	____	____
8. Does the policy differentiate between refusal to hire applicants where such hiring would violate the antinepotism policy and termination of current employees?	____	____

COMPLETED BY:

(Name) (Title) (Location) (Date)

CORRECTIVE ACTION GUIDE: NEPOTISM POLICIES

REFER TO: Title IX Regulation: §86.51(b)(2); §86.53(a); §86.57(a); §86.58(a); and §86.60(a)

Achieving Sex Equity: Table 35

The Title IX Regulation provides that no person shall be treated differently on the basis of sex in the application of nepotism policies. See Sections 86.51(a) and (b)(2). Nepotism, or more accurately, "antinepotism" policies have been common in government agencies since the establishment of civil service systems to promote "meritocracy" in public employment. Historically, "spoils" systems evidenced the hiring of public employees for political or personal reasons. Nepotism describes the practice of public officials extending the benefits of their job by using their administrative power to appoint members of their immediate families to jobs which should have been awarded on the basis of merit alone. As a result, many states and/or school districts enacted "antinepotism" policies; prohibiting the employment of close relatives of public employees. Similarly, many private employers have established "close relative" rules which prohibit the hiring of close relatives of current administrators or the close relatives of all employees.

These antinepotism policies, whether geared toward the avoidance of abuses of public trust or merely designed to lessen the potential for administrative conflicts, have had the effect in many circumstances of furthering sex discrimination. Employers often formulated antinepotism/close relative rules to require termination of the woman employee where two employees married. Additionally, some employers refused to consider the wife's application when both husband and wife submitted applications for positions. Moreover, since men traditionally earned more than women (often because of explicit sex discrimination), the married couple faced with an antinepotism or close relative policy usually determined that the man, with his greater earning power, should be the one to pursue or continue work. Thus, the negative effect of antinepotism/close relative policies has fallen most heavily on female workers.

The approach taken by the Title IX Regulation is to attempt to eliminate application of antinepotism policies which disproportionately disfavor women employees. This approach is reflected in §86.51(a) and (b)(2) which together prohibit treating males and females differently in the application of nepotism policies. The Regulation does not prohibit a school district from enacting or maintaining an antinepotism policy which treat men and women the same. However, districts should recall that §86.60 prohibits pre-employment inquiries as to one's marital status. Presumably, a district could remain in compliance with Title IX by stating the district's antinepotism policy on the application form and informing applicants that signing and submitting the form will be considered an attestation of eligibility for employment under the terms of that policy.

It should be noted that professional organizations for women, particularly in education, have long argued for the elimination of over-broad antinepotism policies. They point out that even a nominally neutral antinepotism policy (for example, one which permits two employees who marry to decide for themselves which partner will quit) tends to result in the woman losing her job for financial or social reasons. Thus, professional women have argued for the elimination of narrow drawing of antinepotism policies.

In this area of employment discrimination law, as well as in others, it is important for schools to recognize that parallel coverage is provided by Title VII of the 1964 Civil Rights

Act and some state laws. Constitutional law principles may also be involved in court challenges to antinepotism rules.

All of the federal court cases concerning close-relative or antinepotism policies have been brought under Title VII and have alleged sex discrimination. One U.S. Court of Appeals case *(Sprogis v. United Airlines, Inc.,* 444 F.2d 1194, *cert. denied* 404 U.S. 991 (1971)) has held that in outlawing sex discrimination in employment in Title VII, Congress implicitly meant to reach discrimination based on marital status as well. However, this decision has not been accepted by other circuits, and the question has yet to be ruled upon by the U.S. Supreme Court. Therefore, an employee who challenges a termination based on marital status must make a showing of sex discrimination under Title VII. This may be done in two ways. First, it may be shown that the policy or rule in question is sex discriminatory on its face. If it were the policy of a school board to impose dismissal or transfer on the wife whenever two employees married, the policy would be facially discriminatory and violative of Title VII. Secondly, a policy which is nominally neutral may be shown to be sex discriminatory in its application. For example, in *Yuhas v. Libbey Owens Ford Co.,* 562 F.2d 409, *cert. denied* 435 U.S. 934 (1977), there was a policy which prevented married couples from working in the same department. The policy made no mention of sex. However, in practice, 71 of the 74 persons who had been disqualified from employment under this policy had been female; and the court found a violation of Title VII.

This policy, though neutral on its face, had a disparate impact on women; that is, it was more often applied to the disadvantage of women. Using "disparate impact" to establish a violation has been well established in cases of racial discrimination *(Griggs v. Duke Power,* 401 U.S. 424 (1971)), and has been certified by the Supreme Court for use in sex discrimination cases *(Dothard v. Rawlinson,* 403 U.S. 321 (1978)). However, showing a violation of Title VII through disparate impact may not be sufficient to obtain relief. The Supreme Court has held that a facially neutral rule which is discriminatory in effect may be upheld if it is reasonably job related. Employers have argued that "close relation" rules serve the following purposes: reduction of employee strife *(Harper v. TWA,* 524 F.2d 409 (1974); *Sanbonmatsu v. Boyer,* 357 NY S.2d 245 (1974), EEOC decision #75-239, 3/2/76); prevention of collusion *(Sanbonmatsu v. Boyer, Yuhas);* prevention of persons supervising their spouses *(Yuhas, Tuck v. McGraw-Hill,* 421 F.Supp. 39 (1974)). The court in *Yuhas* accepted these arguments and refused to compel Libbey-Owens Ford to hire Ms. Yuhas despite a showing of disparate impact.

The *Yuhas* case involved an employer's decision not to hire because of its close relation rule. Other courts have drawn a distinction between this kind of situation and one involving the termination of an existing employee through application of a close relation rule. In *Backman v. Bateman,* 1 Utah 2d 153, 263 P.2d 561 (1953), for example, the Utah Supreme Court declared unconstitutional an antinepotism statute which operated to terminate the employment of a high school principal and teacher when their brother was elected to the school board. The court felt that the two had had a vested interest in their jobs through the contributions that they had made to the school's pension fund, and felt that the job-relatedness of the antinepotism statute, though acknowledged, was not enough to justify taking away those rights. The *Backman* case is a useful illustration of the fact that in assessing these cases to determine whether a plan with disparate effects is saved by its bona fide job-relatedness, courts will assess the overall fairness of the rule. Courts have validated dismissals and refusals to hire under rules where care was taken to inform the employee of the rule at the time he or she commenced employment

(Tuck v. McGraw-Hill, Meier v. Evansville-Vanderburg School Corp., 416 F.Supp. 748 (1975), *Harper v. TWA),* and where, when one of two employees must terminate or transfer, the choice is left to the couple as to which one will leave, rather than being imposed by the employer *(Harper, Tuck).* In situations where the choice is imposed, it is imperative that it be made on relatively neutral grounds, such as seniority *(Harper).* Again, courts seem more favorably disposed toward plans which affect only hiring decisions, rather than operating against current employees, as well *(Backman).*

Although all of the federal cases to date have been brought under Title VII, alleging sex discrimination, other theories of constitutional law might support such cases. Federal courts have yet to rule on these other theories. The Supreme Court has made it clear, however, that there is a constitutional right to marry, and the marriage relationship is protected by a right of privacy which is still in the process of evolutionary definition by the courts. Furthermore, courts have held that a person has a property right to hold his or her job which may not be taken away without "due process of law." Whether federal courts will rule that a dismissal because of marital status is not "due process" remains an open question. At least three state courts, in Utah, New York and Nebraska *(Backman, Sanbonmatsu, Voichackoske* v. *City of Grand Island,* 194 Neb. 175, 231 NW2d 124 (1975)), have applied these federal constitutional doctrines to strike down or disfavor decisions to fire or not to hire based on marital status.

It should be emphasized, again, that federal law only forms the bottom line in these matters, defining standards below which states cannot reach. A number of states in the Northwest, however, have acted to impose more stringent standards. Both Washington and Oregon now have laws which forbid firing or refusing to hire a person solely because he or she bears close relationship to another employee of the employer. Both laws contain exceptions. Oregon's law, at Chapter 771, Laws of 1977, allows an employer to discharge or refuse to hire the spouse of another employee if not to do so would:

- violate state or federal law
- be a violation of conditions of eligibility for federal aid
- place the individual "in a position of exercising supervisory, appointment or grievance adjustment authority" over a family member, or
- interfere with a "bona fide occupational requirement reasonably necessary to normal operation of the employer's business."

The wording of the Oregon law remains somewhat broad. The Washington law provides clearer language for exceptions, and could serve as a guideline for districts in other states. Title 162, Chapter 162-16 of the Washington Administrative Codes, amended April 17, 1975, effective May 17, 1975, makes it plain that firing or refusing to hire a person because that person's spouse is an employee is an unfair employment practice.* The law also allows an exception for business necessity, but it carefully describes the only four situations which constitute a "business necessity." These are:

- when one spouse would have supervisory authority over another
- where one spouse could audit the work of another
- where the interests of the two spouses would conflict with those of the employer
- where the employer, to avoid the appearance of improper influence, refuses to hire a person whose spouse works for a close competitor.

*A Washington trial court upheld a challenge to the Washington Human Rights Commission regulations in an unreported case. The Washington Supreme Court has heard the case, brought by Washington Water Power Co., on appeal and a decision is expected shortly. Telephone interview with Gary Dalhke, Paine Lowe, Coffin, Herman, O'Kelley, Attorneys for Washington Water Power, October, 1978.

These are presumably the only instances of "business necessity," and the burden of proof rests with the employer to show that any such practice comes within one of these exceptions.

Idaho does not have a similar law and, hence, would be governed only by the federal laws and constitutions. Idaho is one of the few states which still has an antinepotism statute, but case law has held that the statute does not apply to school districts or to hiring and firing at the University of Idaho *(Barton v. Alexander,* 27 Id. 286, 148 p. 471 (1915)), so these two employers are at least not bound to discharge or refuse to hire persons in such situations.

In order to satisfy the requirements of federal law, any "close-relation" rule must be neutral on its face, and in all courts, except those in the seventh circuit, which decided the *Yuhas* case, must be **applied** neutrally, as well. This means that no such rule, however characterized, may operate in practice to disproportionately burden females or males. Employers should give careful consideration to abolishing such rules, recognizing that they may be more often based on outmoded tradition than on practical business necessity.

Policies which are deemed essential, to assure fair operation, should be:

- disclosed to all employees at time of the employee's first contact with the employer
- carefully drawn so as to affect **only** those persons necessary; do not forbid hiring of spouses for any purposes if simply preventing spouses from being in a supervisory capacity with respect to each other will accomplish the desired results
- if one or two spouses must terminate or be transferred, leave the decision as to which must be affected to the couple rather than impose it on either
- If the decision must be imposed, use neutral standards to make it
- If even a neutral standard has disparate discriminatory effects, consider it the employer's duty to abandon the rule.

If corrective action in this area is needed, proceed to the *Compliance Records* page at the end of the *Employment* section.

CORRECTIVE ACTION GUIDE: MARITAL AND PARENTAL STATUS

REFER TO: Title IX Regulation: §86.56, §86.57
Achieving Sex Equity: Table 19, 33 and 34

The Title IX Regulation prohibits sex discrimination in employment on the basis of parental or marital status. This means that no policy or practice of a school district which conerns marital, parental or family status of an applicant or employee may treat males and females differently (see §86.57(a)(1)). For example, in the past, some school districts refused to hire mothers of young children, believing either that the mothers should be at home with the children or that the mothers would be absent from work too frequently caring for the children's needs. The same practice did not apply to fathers of young children. This practice and others, treating males and females differently on the basis of their marital or parental status are prohibited by the Regulation.

In keeping with the above, the Title IX Regulation also prohibits school districts from basing any employment or salary decisions on whether an applicant or employee is the "head of household" or "principal wage earner" in that employee's or applicant's household (see §86.57(a)(2)). In the past many school districts gave preference in hiring or salary increments to persons who were heads of a household or the principal wage earner. Since men earn far more than women in the marketplace, they are generally the principal wage earners. Moreover, historically, men were considered to be the "head of household" by law in most states, whether the man was the principal wage earner in the family or not. For these reasons, preference in hiring or salary increments to heads of a household or the principal wage earner tends to favor males much more often than females. Thus, while such a policy might be neutral or nondiscriminatory at first glance, the effect of the policy is discriminatory.

In addition to the general provisions concerning sex discrimination based on marital, parental or family status, the Title IX Regulation specifically prohibits discrimination on the basis of pregnancy.* Section 86.57(b) states that: "A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, or recovery therefrom." This general rule broadly prohibiting discrimination on the basis of pregnancy is supplemented by more specific regulations concerning pregnancy leave and requiring treatment of pregnancy as a temporary disability. Because these sections of the Title IX Regulation are the basis of many employee complaints, they are restated in full below.

> "Section 86.57(c) *Pregnancy as a temporary disability.* A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment."

*The Title IX Regulation defines "pregnancy" to include "childbirth, false pregnancy, termination of pregnancy and recovery therefrom and any other temporary disability resulting therefrom . . ." Therefore, each time the term "pregnancy" is used in this explanation of the Regulation, the reader must recall that this term is broadly defined to include all of the above conditions.

Under §86.57(c), pregnancy is to be treated as a temporary disability and thus covered under any medical insurance plan provided by the employer just as other temporary disabilities such as a broken leg are. If the school district has a disability income program, payment must be made for any pregnancy-associated disability under the same conditions as for any other disability. Thus, if the district disability income program provided income to persons disabled longer than six months, any woman who had serious complications from pregnancy and was disabled over six months would be entitled to the designated income payments. Also, if it is school district policy that the time while one is disabled due to a broken leg or appendicitis is included in the calculation of the employee's seniority, then the time while one is disabled due to pregnancy must also be included in calculating seniority.

All districts which have leave policies for their employees must treat pregnancy as any other temporary disability. This means that a school district cannot require a written statement from a woman's physician before permitting her to commence pregnancy leave or to return from leave **unless** the same requirement is imposed upon persons with a broken leg or any other temporary disability. In other words, policies and practices concerning the commencement, duration, or extension of leave should be the same whether the request is based on a pregnancy-related condition or some other temporary disability.

Moreover, §86.57(d) addresses the situation where a school district has no leave policy or the particular employee does not qualify for leave under district policy as follows:

> "Section 86.57(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment."

In interpreting Title IX, HEW clearly accepted the view that discrimination on the basis of pregnancy was a form of sex discrimination. This view was in accord with the position taken by the Equal Employment Opportunity Commission and the Supreme Court's decision in *Cleveland Board of Education v. LaFleur,* 414 U.S. 632 (1974). The *LaFleur* case is well-known to educational administrators. There the Supreme Court held that school districts could not constitutionally require a pregnant teacher to leave the classroom at a specified date such as four or five months before childbirth, nor could the district prohibit the teacher's return from pregnancy leave until some arbitrary date such as three months after birth. The court found that women had a due process right to an individualized determination of their fitness to perform their teaching duties before and after childbirth.

Since the *LaFleur* decision, the Supreme Court has decided a number of cases concerning pregnancy discrimination. Several of these cases have been based on the Title VII regulation requiring the treatment of pregnant persons and/or the treatment of the condi-

tion of pregnancy in the same manner as employers treated persons with any temporary disability. This EEOC regulation requiring treatment of pregnancy as a temporary disability under Title VII is very similar to the HEW regulation issued under the authority of Title IX. The decisions of the Supreme Court have led to confusion among educators as to the status of the law in this area. A brief summary of the Supreme Court decisions and their impact on the Title IX regulation is presented below.

In 1976, the Supreme Court decided the case of *General Electric Co. v. Gilbert,* 429 U.S. 125 (1976). Ruling that G.E. could provide a comprehensive health insurance plan for its employees which excluded pregnancy from coverage without violating Title VII, the court failed to follow the EEOC guideline requiring treatment of pregnancy as a temporary disability. The court's rationale for this decision was two-fold. The court noted that policies or practices may violate Title VII's prohibition against sex discrimination in one of two ways: 1) the policy or practice may be discriminatory on its face; or 2) although neutral on its face, the policy or practice may have a disproportionately adverse effect on members of one sex.

Adopting the test for gender-based discrimination announced in *Geduldig v. Aiello,* 417 U.S. 484 (1974), the court concluded that discrimination on the basis of pregnancy was not sex discrimination on its face and therefore did not violate Title VII per se. Sex discrimination on its face occurs where policies or practices divide people into two categories — one exclusively female and the other exclusively male. In the case of pregnancy discrimination, two categories of people are established: pregnant persons and non-pregnant persons. While all pregnant persons are female, the class of non-pregnant persons includes both males and females. Since one of the two categories established by pregnancy discrimination is not exclusively composed of members of one sex, such discrimination is not violative of Title VII per se.

The court then proceeded to rule that the specific insurance plan under consideration in the *Gilbert* case did not adversely affect women as a group. This conclusion was based on the lack of evidence that the General Electric insurance package was worth more to men than to women. Without proof that the exclusion of coverage for pregnancy-related disabilities caused the value of the insurance plan to be less for women as a group, the court declined to find that the exclusion of coverage for pregnancy had an adverse effect on women and therefore violated Title VII.

In 1978, the Supreme Court decided another major case in this area. *Nashville Gas Co. v. Satty,* _____ U.S. _____ 97 S.Ct. 401 (1977). In *Satty*, a woman challenged a policy whereby she lost her seniority with the company for job-bidding purposes when she returned from pregnancy leave. The Supreme Court held that the denial of seniority in these circumstances violates Title VII. The majority opinion explains that while pregnancy discrimination is not sex discrimination on its face, the denial of seniority after pregnancy leave has an adverse effect on women and therefore Title VII is violated. The court concludes that policies which have the effect of denying employment opportunities to members of one sex violate Title VII.

Justice Stevens reached the same decision in *Satty* but explained his result differently. He drew a distinction between discrimination against a **condition,** such as pregnancy, and discrimination against formerly pregnant persons. Thus, the denial of medical insurance benefits for pregnancy related disabilities in *Gilbert* was permissible discrimination against a condition; whereas, denial of seniority to women returning from pregnancy leave in *Satty* was impermissible discrimination against formerly pregnant persons.

The Supreme Court declined to decide the second issue in *Satty:* whether the failure to grant sick leave pay for pregnancy leave violated Title VII. Instead the court sent the case back to the lower court for a determination of whether the exclusion of pregnancy-related disabilities from sick leave benefits was merely a pretext for discrimination against women. At the same time, the court remanded (or sent back to the trial court) *Richmond Unified School District v. Berg,* 434 U.S. 158 (1977) for consideration in light of its decision in *Satty. Berg* also concerned a failure to grant sick leave pay for pregnancy leave.

In summary, it appears from recent Supreme Court decisions that Title VII is violated where discrimination against pregnant or formerly pregnant women leads to a denial of employment opportunities. It is difficult to be more specific about the likely direction of Supreme Court opinions concerning pregnancy discrimination under Title VII because the underlying rationale of the Supreme Court for its decisions in this area has not been clearly explicated.

The cases discussed above indicate the Supreme Court's interpretation of Title VII of the 1964 Civil Rights Act. These decisions have no direct, legal impact on Title IX. At the present time, the Title IX Regulation requiring the treatment of pregnancy as a temporary disability remains in force. Therefore, Title IX requirements for pregnancy benefits for school employees must be adhered to until they are reviewed by the court. In addition, there is a bill presently before the U.S. Congress which, if passed, would prohibit discrimination on the basis of pregnancy and supersede the decision in *General Electric Co. v. Gilbert.* School districts should remain informed as to the status of this bill.

School administrators should further be aware of their state law concerning discrimination on the basis of pregnancy. In Washington and Oregon, state law prohibits discrimination on the basis of pregnancy. Thus, in those states, school districts may not discriminate on the basis of pregnancy regardless of the interpretation of Title VII or Title IX.

If corrective action is needed in this area, proceed to the *Compliance Records* page at the end of the *Employment* section.

COMPLIANCE RECORDS

INSTRUCTIONS. For each area of this guide, enter the corrective action steps to be undertaken. Complete different forms for corrective action steps to be undertaken at the district level and corrective action steps to be undertaken in individual school buildings. Differentiate these forms by marking the appropriate box below. Identify the area to which this record applies, e.g., Athletics, in the space labeled "Compliance Area." As soon as corrective steps are identified, enter these in the first column. Make these as specific as possible. For example, rather than entering "equalize the equipment available for girls' and boys' basketball teams," identify specific actions to be taken, such as "purchase three Wilson basketballs for the girls' basketball team." Then enter the name of the person responsible for each action and the date the action is to be completed. Later, enter the date the action was in fact completed, the location of supporting documentation and any comments regarding this action which seem relevant. Such comments might include changes which were made in the planned corrective steps or problems which arose in completing the actions on schedule.

COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

COMPLIANCE RECORDS

INSTRUCTIONS: For each area of this guide, enter the corrective action steps to be undertaken. Complete different forms for corrective action steps to be undertaken at the district level and corrective action steps to be undertaken in individual school buildings. Differentiate these forms by marking the appropriate box below. Identify the area to which this record applies, e.g., Athletics, in the space labeled "Compliance Area." As soon as corrective steps are identified, enter these in the first column. Make these as specific as possible. For example, rather than entering "equalize the equipment available for girls' and boys' basketball teams," identify specific actions to be taken, such as "purchase three Wilson basketballs for the girls' basketball team." Then enter the name of the person responsible for each action and the date the action is to be completed. Later, enter the date the action was in fact completed, the location of supporting documentation and any comments regarding this action which seem relevant. Such comments might include changes which were made in the planned corrective steps or problems which arose in completing the actions on schedule.

COMPLIANCE AREA _____

☐ DISTRICT-WIDE CORRECTIVE ACTION ☐ INDIVIDUAL BUILDING _____
(Name of Building)

CORRECTIVE ACTION TO BE TAKEN	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED	LOCATION OF DOCUMENTATION	COMMENTS

COMPLETED BY _____
(Name) (Title) (Location) (Date)

ACHIEVING SEX EQUITY: Assessing Compliance with Title IX in Public Schools; Portland State University; Portland, Oregon.

VI

RESOURCES

RESOURCES

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This bibliography was developed by the Resource Center for Sex Roles in Education, National Foundation for Improvement in Education, for the national series of workshops on Title IX, sponsored by the Council of Chief State School Officers in 1977-78, under contract to the U.S. Office of Education, HEW, Women's Program Staff.

TITLE IX TECHNICAL ASSISTANCE RESOURCES IN REGION X

State Departments of Education

The U.S. Office of Education has funded Title IX technical assistance programs in the following state departments of education within Region X:

Washington
Beth Voorhees Wilke, *Program Administrator*
Office for Equity in Education
Old Capitol Building
Olympia, Washington 98504 (206) 753-2560

Oregon
Jerry Fuller, *Director of Compensatory Education*
Oregon Department of Education
942 Lancaster Drive NE
Salem, Oregon 97316 (503) 378-3061

Idaho
Margie Boylan, *Consultant, Equal Opportunity Services*
Idaho State Department of Education
Len B. Jordan Building
650 West State Street
Boise, Idaho 83720 (208) 384-3814

Alaska
Gladys Tinney
Department of Education
Sixth Floor
State Office Building, Pouch F
Juneau, Alaska 99811 (907) 465-2894

Northwest Sex Desegregation Assistance Center

The U.S. Office of Education has funded a Title IX technical assistance center to provide assistance to any school district in Washington, Oregon, Idaho or Alaska. Requests for assistance should be directed to:

Kathryn Scotten, *Project Director*
Northwest Sex Desegregation Assistance Center
Portland State University
P.O. Box 751
Portland, Oregon 97207 (503) 229-4628

The Office for Civil Rights, Region X

The Office for Civil Rights (OCR) is the agency within the Department of Health, Education and Welfare, which developed the *Final Regulation Implementing Title IX* and which is responsible for its enforcement. Inquiries to the Office for Civil Rights should be addressed to:

Regional Director
Office for Civil Rights
6101 Arcade Plaza Building
1321 Second Avenue
Seattle, Washington 98101

IDENTIFYING AND OVERCOMING SEX DISCRIMINATION IN EDUCATION

Alfrey, Jean K. *Equal Rights for Women in Education: A Resource Handbook for Policy Makers.* Denver, Colo.: Equal Rights for Women in Education Project, Education Commission of the States, 1976. (122 pgs, $2.50)

American Association of School Administrators. *Sample Policy for Sex Equality in Education,* pamphlet; *Sex Equality in Educational Administration,* 23 pgs; *Sex Equality in School,* 25 pgs Arlington, Va.: American Association of School Administrators, 1975.

Astin, Helen S.; Harway, Michele; and McNamara, Patricia. *Sex Discrimination in Education: Access to Postsecondary Education,* 284 pgs and *Sex Discrimination in Education: Access to Postsecondary Education—Annotations.* Washington, D.C.: U.S. Department of Health, Education, and Welfare, National Center for Education Statistics, 1976.

Civil Rights Digest, Spring 1974. (Special issue on women.) Washington, D.C.: U.S. Civil Rights Commission.

Eliminating Sex Discrimination in Schools—A Source Book. Raleigh, N.C.: Research and Information Center, State Department of Public Instruction, May 1975. (150 pgs)

Equal Rights for Women in Education: A Model Policy Statement and Guide Lines for Implementation. Denver, Colorado: Equal Rights for Women in Education Project, Education Commission of the States, Ford Foundation Grant, May 1977.

Gross, Neal and Trask, Ann E. *The Sex Factor and the Management of Schools.* New York: John Wiley & Sons, 1976. (379 pgs)

Harrison, Barbara Grizzuti. *Unlearning the Lie—Sexism in School.* New York: William Morrow & Co., Inc., 1974. (176 pgs, $2.95)

Hogan, Candace Lyle. "Shedding Light on Title IX—What You Need to Know to Make It Work." *womenSports,* February 1976. (pgs 44-48)

Howard, Suzanne. *Liberating Our Children, Ourselves.* Washington, D.C.: American Association of University Women, 1975.

Journal of Teacher Education, Winter 1975. (Thematic Section: "The Molding of the Non-sexist Teacher.") Washington, D.C.: American Association of Colleges for Teacher Education.

Marshall, Joan K. *On Equal Terms.* New York, N.Y.: Neal Schuman Publishers, 1977. (152 pgs)

Parr, Carol. *Higher Education—A WEAL Fund Kit.* Washington, D.C.: Women's Equity Action League, Educational and Legal Defense Fund, 1976. (assorted materials)

Raffel, Norma. *Title IX—How It Affects Elementary and Secondary Education.* Denver, Colo.: Equal Rights for Women in Education Project, Education Commission of the States, 1976. (35 pgs, $2.00)

Sheridan, E. Marcia, comp. *Sex Differences and Reading—An Annotated Bibliography.* Newark, Del.: International Reading Association, 1976. (40 pgs)

WEAL (Women's Equity Action League) Washington, Report. Washington, D.C.: WEAL. ($ J per year, 12 issues)

ELEMENTARY/SECONDARY CURRICULUM

Ahlum, Carol: Fralley, Jacqueline; and Howe, Florence, comp. *High School Feminist Studies.* Old Westbury, N.Y.: Feminist Press, 1976. (159 pgs)

Clapp, Ouida. *Classroom Practices in Teaching English — 1976-1977 — Response to Sexism.* Urbana, Ill.: National Council of Teachers of English, 1976.(150 pgs, $4.95)

Dick and Jane as Victims: Sex Stereotyping in Children's Readers. Princeton, N.J.: Women on Words and Images, 1972.(57 pgs, $2.00)

Educational Challenges, Inc. *Today's Changing Roles: An Approach to Non-Sexist Teaching.* Washington, D.C.: National Foundation for the Improvement of Education, Resource Center on Sex Roles in Education, 1974. (108 pgs, $3.00)

EPIE Career Education Set. Vol 1: How to Select and Evaluate Instructional Materials. New York: EPIE Institute, 1975. (107 pgs)

Grambs, Jean Dresden, ed. *Teaching About Women in the Social Studies: Concepts, Methods, and Materials.* Arlington, VA.: National Council for the Social Studies, 1976. 117 pgs

Guidelines for Improving the Image of Women in Textbooks. Glenview Ill.: Scott, Foresman and Co., 1972. (11 pgs)

Guidelines for the Development of Elementary and Secondary Instructional Materials — The Treatment of Sex Roles. New York: Holt, Rinehart and Winston, 1975. (13 pgs)

Lerner, Jane; Bergstrom, Fredell; and Champagne, Joseph E. *Equal Vocational Education.* Houston, Tex.: Center for Human Resources, University of Houston, 1976. (96 pgs)

Messinger, Mildred. *The House That Jill and Jack Built.* San Francisco, Calif.: Women's Studies Program — Advocates for Women, Berkeley Unified School District, 1976.

Naiman, Adeline, ed. *Girls at 12 (Teacher's Guide,* 31 pgs; *Student Resource Book,* 80 pgs). Newton, Mass.: Education Development Center, Inc., 1975.

"Revolution in Women's Sports" (reprint from *womenSports,* September 1974. San Mateo, Calif.: *womenSports.*

Sprung, Barbara. *Non-Sexist Education for Young Children — A Practical Guide.* New York: Citation Press, 1975. (115 pgs, $3.25)

Weitzman, Lenore J. and Rizzo, Diane. *Biased Textbooks — Images of Males and Females in Elementary School Textbooks in Five Subject Areas.* Washington, D.C.: National Foundation for the Improvement of Education, Resource Center on Sex Roles in Education, 1974. (11 pgs, $1.00)

TEXTBOOKS

Franco, John M. *American Women Contributors to American Life.* Westchester, Ill.: Benefic Press, 1976. (192 pgs, grades 4-9)

Judd, Barbara and Josephs, Daniel. *Women in the United States.* Glenview, Ill.: Scott, Foresman and Co., 1975. (192 pgs)

GUIDANCE AND COUNSELING

Diamond, Esther E., ed. *Issues of Sex Bias and Sex Fairness in Career Interest Measurement.* Washington, D.C.: Department of Health, Education, and Welfare, National Institute of Education, Career Education Program, Spring 1975. (219 pgs)

Help Wanted — Sexism in Career Education Materials. Princeton, N.J.: Women on Words and Images, 1975. (51 pgs $2.50)

Scholz, Nelle Tumlin; Prince, Judith Sosebee; and Miller, Gordon Porter. *How to Decide — A Guide for Women.* New York: College Entrance Examination Board, 1975. (121 pgs, $5.95)

Stebbins, Linda B.; Ames, Nancy L.; and Rhodes, Ilana. *Sex Fairness in Career Guidance — A Learning Kit.* Cambridge, Mass.: ABT Publications, 1975 (265 pgs plus handouts and cassette, $15.00)

Tittle, Carol Kehr; McCarthy, Karen; and Steckler, Jane Faggen. *Women and Educational Testing — A Selective Review of the Research Literature and Testing Practices.* Princeton, N.J.: Educational Testing Service, 1974. (57 pgs)

YWCA Vocational Readiness Package. Los Angeles, Calif.: YWCA of Los Angeles, Summer 1975.

WOMEN'S STUDIES

Boston Women's Health Book Collective. *Our Bodies, Ourselves — A Book By and For Women.* New York: Simon and Schuster, 1976. (383 pgs, $13.95)

Chesler, Phyllis. *Women and Madness.* New York: Doubleday and Co., Inc., 1972. (359 pgs, $2.25)

Deaux, Kay. *The Behavior of Women and Men.* Monterey, Calif.: Brooks/Cole Publishing Co., 1976. (168 pgs)

Donelson, Elaine. *Sex Differences in Developmental Perspective.* Homewood, Ill.: Learning Systems Co., 1975. (41 pgs)

de Beauvoir, Simone. *The Second Sex.* New York: Vintage Books, 1974. (814 pgs, $3.95)

Iglitzin, Lynne B. and Ross, Ruth, eds. *Women in the World — A Comparative Study.* Santa Barbara, Calif.: Clio Books, 1976. (427 pgs)

Macksey, Joan and Macksey, Kenneth. *The Book of Women's Achievements.* New York: Stein and Day Publishers, 1975. (288 pgs, $12.95)

New Directions for Women. (Newsletter). Dover, N.J.: New Directions for Women. ($3.00 per year, quarterly)

Nilsen, Alleen Pace; Bosmajian, Haig; Gershuny, H. Lee; and Stanley, Julia P. *Sexism and Language.* Urbana, Ill.: National Council of Teachers of English, 1977. (203 pgs, $5.95)

Osborn, Ruth Helm. *Developing New Horizons.* New York: McGraw-Hill, 1977.

Osborn, Ruth Helm and Mary Jo Strauss. *Development and Administration of Continuing Education for Women, (1964-1974).* Washington, D.C.: George Washington University, College of General Studies. (150 pgs, $5.00)

Peters, Barbara and Samuels, Victoria, eds. *Dialogue on Diversity — A New Agenda for American Women.* New York: Institute on Pluralism and Group Identity, 1976. (88 pgs, $1.95)

Qoyawayma, Polingaysi. *No Turning Back — A True Account of a Hopi Indian Girl's Struggle to Bridge the Gap between the World of Her People and the World of the White Man.* Albuquerque, N.M.: University of New Mexico Press, 1964. (280 pgs, $3.95)

Watson, Barbara Bellow, ed. *Women's Studies — The Social Realities.* New York: Harper's College Press, 1976. (255 pgs)

HISTORY

Flexner, Eleanor. *Century of Struggle — The Women's Rights Movement in the United States.* Cambridge, Mass.: Harvard University Press, 1959.(405 pgs,$3.95)

Kraditor, Aileen S. *The Ideas of the Women Suffrage Movement,* 1890-1920. Garden City, N.Y.: Anchor Books, 1971. (262 pgs, $2.50)

Rowbotham, Sheila. *Hidden From History: Rediscovering Women in History from the 17th Century to the Present.* New York: Pantheon Books, 1974. (183 pgs, $8.95)

Stuard, Susan Mosher, ed. *Women in Medieval Society.* Philadelphia, Pa.: University of Pennsylvania Press, 1976. (219 pgs)

SCIENCE/MATHEMATICS

Ernest, John. *Mathematics and Sex.* Santa Barbara, Calif.: Mathematics Department, University of California, April 1976. (30 pgs)

Mozans. H.J. *Woman in Science — With an Introductory Chapter on Woman's Long Struggle for Things of the Mind.* Cambridge, Mass.: The M.I.T. Press, 1974. Originally copyrighted by D. Appleton and Co. (452 pgs, $4.95)

EMPLOYMENT/AFFIRMATIVE ACTION

Foxley, Cecelia H. *Locating, Recruiting, and Employing Women: An Equal Opportunity Approach.* Garrett Park, Md.: Garrett Park Press, 1976. (357 pgs, $7.50)

Seifer, Nancy. *Nobody Speaks for Me!* New York: Simon and Schuster. 1976.(477 pgs,$10.95)

Shaeffer, Ruth G. *Nondiscrimination in Employment: Changing Perspectives, 1963-1972.* New York: The Conference Board, Inc., 1973. (100 pgs, $3.50 associate and educational, $17.50 non-associate)

TRAINING

Verheyden-Hilliard, Mary Ellen. *A Handbook for Workshops on Sex Equality in Education — Information Activities Resources for Educators, Students and the Community.* Washington, D.C.: American Personnel and Guidance Association, n.d. (80 pgs)

TITLE IV PROJECTS

The following projects funded under Title IV of the Civil Rights Act of 1964 to provide technical assistance to local school districts in race and sex desegregation have materials on display at the Resource Fair:

Educational Equity Project
Alabama State Department of Education
State Office Building
Montgomery, Alabama 36104

General Assistance Center
Far West Laboratory for Research and Development
1855 Folsom Street
San Francisco, California 94103

Project Equity
California State University
Fullerton, California 92634

Center for Educational Improvement (a General Assistance Center)
College of Education
University of Georgia
Athens, Georgia 30602

Consultative Center for Equal Educational Opportunity (a General Assistance Center)
University of Oklahoma
555 Constitution Avenue
Norman, Oklahoma 73069

KEDS General Assistance Center
College of Education
Kent State University
Kent, Ohio 44242

General Assistance Center
East Carolina University
Greenville, North Carolina 27834

WEEA PROJECTS

The following projects funded under the Women's Educational Equity Act have materials on display at the Resource Fair. Please note that since most of the projects did not get underway until mid-1976, preliminary, not final products of the projects are on display here.

Student Commitment to Educational Equity Project
Bureau of Student Services
Massachusetts Department of Education
182 Tremont Street
Boston, Massachusetts 02111

Expanding Career Options Project
Nebraska Commission of the Status of Women
619 Terminal Building
Lincoln, Nebraska 68508

Career Planning Procedures Project (FOCUS)
Cleveland State University
1420 University Tower
Cleveland, Ohio 44115